

Rules

RULE

Department of Agriculture and Forestry Horticulture Commission

Licenses (LAC 7:XXIX.117)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Horticulture Commission, hereby amends regulations regarding the required standards of practice for the utility arborist license.

This Rule is enabled by R.S. 3:3801.

Title 7

AGRICULTURE AND ANIMALS

Part XXIX. Horticulture Commission

Chapter 1. Horticulture

§117. Required Standards of Practice

A. - I.4. ...

5. Recommendations and pruning practices shall meet the standards outlined in the *International Society of Arboriculture Certification Manual* and *Best Management Practices—Utility Pruning of Trees*, a publication by the International Society of Arboriculture.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3808 and R.S. 3:3801.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:185 (April 1982), amended LR 9:410 (June 1983), LR 11:317 (April 1985), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 14:8 (January 1988), LR 20:640 (June 1994), LR 27:1832 (November 2001), LR 32:78 (January 2006).

Bob Odom
Commissioner

0601#049

RULE

Office of the Governor Commission on Law Enforcement and Administration of Criminal Justice

General Subgrant Guidelines
(LAC 22:III.Chapters 41, 45, 59, 61, and 71)

In accordance with the provision of R.S. 15:1204, R.S. 14:1207, and R.S. 49:950 et seq., the Administrative Procedure Act, the Commission on Law Enforcement and Administration of Criminal Justice hereby amends its rules and regulations relative to subgrants. Chapter 14 is repealed and new text has been adopted. The following Rule has been recodified for topical purposes. The changes can be seen in the chart below.

There will be no impact on family earnings or the family budget as set forth in R.S. 49:972.

Previous Number	Current or New Number
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Subpart 1. Privacy and Security Regulation	
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§4101. Review	§4101. Applicability
§4103. Applications	§4103. Definitions
§4105. Funding	§4105. General Provisions
§4107. Training Payments	§4107. Repealed
§4109. Unawarded Funds	§4109. Repealed
§4111. Local Block Training Funds	§4111. Repealed
§4113. Subgrants	§4113. Repealed
Chapter 43. Appeals Procedure	
§4301. Appeals Procedure	
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§4501. Approval	§4501. Limitations
§4503. Traffic-Related Grants	§4503. Eligibility
§4505. Local Criminal Justice Agencies	§4505. Indirect Costs
§4507. Personnel Costs	§4507. Regional Planning Units and Criminal Justice Coordinating Councils
§4509. Indirect Costs	§4509. Funding Restrictions
§4511. Regional Planning Units and Criminal Justice Coordinating Councils	§4511. Operational Policies
§4513. Funding Restrictions	§4513. Repealed
§4515. Renovation	§4515. Repealed
§4517. Private, Non-Profit Agencies	§4517. Repealed
§4519. Consultants and Contracts	§4519. Repealed
§4521. No-Cost Technical Assistance	§4521. Repealed
§4523. Confidential Funds	§4523. Repealed
§4525. Reimbursement for Basic Training Tuition	§4525. Repealed
§4527. Universities	§4527. Repealed
§4529. Agency on Peace Officer Standards and Training (POST) Council Note	§4529. Repealed
§4531. Eligibility	§4531. Repealed
§4533. Travel Expenses	§4533. Repealed
§4535. Lobbying	§4535. Repealed
§4537. Politically Oriented Material	§4537. Repealed
§4539. Child Abuse/Neglect Projects	§4539. Repealed
§4541. Computers	§4541. Repealed
§4543. Requirement Analysis	§4543. Repealed
Subpart 4. Peace Officers	
Chapter 47. Standards and Training	
Subpart 5. Crime Victim Assistance	Subpart 5. Grant Application or Subgrants Utilizing Federal, State or Self-Generated Funds
Chapter 49. Policies and Procedures	Moved to Subpart 6, Chapter 61.
Chapter 51. Appeals Procedure	
Chapter 53. Drug Abuse Resistance Education (D.A.R.E.)	
Chapter 55. Uniform Crime Reporting System	
Chapter 57. Formula for Distribution of Federal Grant Funds	

Subpart 6. Grant Applications or Subgrants Utilizing Federal, State or Self-Generated Funds	Subpart 6. Program Operational Policies
	Chapter 59. Drug Policy and Violent Crime Advisory Board
	§5901. Adoption
	§5903. Introduction
	§5905. Program Rules
Chapter 61. Code of Professional Conduct	Moved to Subpart 7, Chapter 71
Chapter 49. Policies and Procedures	Chapter 61. Policies and Procedures
§4901. Introduction	§6101. VOCA and VAWA Grants
Subpart 7. Asset Forfeiture	
Chapter 61. Code of Professional Conduct	Chapter 71. Code of Professional Conduct
§6101. Adoption	§7101. Adoption
§6102. Introduction	§7102. Introduction
§6103. Code of Professional Conduct	§7103. Code of Professional Conduct

Title 22

CORRECTIONS, CRIMINAL JUSTICE, AND LAW ENFORCEMENT

Part III. Commission on Law Enforcement and Administration of Criminal Justice

Subpart 3. General Subgrant Guidelines

Chapter 41. Procedures

§4101. Applicability

A. These rules apply to all subgrants available from the Louisiana Commission on Law Enforcement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 32:79 (January 2006).

§4103. Definitions

A. Definitions

Federal Guidance—refers to all published federal regulations, rules, and guidance with general applicability or specific applicability to a particular block or formula grant program.

Subgrant—a grant issued pursuant to a federal or state block grant or formula program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 32:79 (January 2006).

§4105. General Provisions

A. All subgrants must comply with applicable federal laws, regulations and guidance, as well as all applicable state laws, regulations and rules.

B. No subgrant award will be issued until all applicable certifications and assurances have been signed by the responsible authority.

C. All applications must be received by LCLE by the deadline established for the commission meeting for which they are being submitted. Any application received after that time will not be presented until the commission meeting following the meeting for which it was originally scheduled, unless specifically approved by the executive director and chairman of the commission for lay out.

D. No subgrant will be considered by the commission until reviewed by the appropriate advisory board unless said subgrant is not part of a program subject to such review.

E. The Louisiana Commission on Law Enforcement must approve all subgrants before any award will be made.

F. All subgrant progress reports must be submitted in a timely fashion or draw down of funds may be suspended.

G. All subgrants are subject to audit and monitoring by the responsible authority. Subgrantees are required to cooperate fully with any such inquiry or all unexpended funds may be frozen.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 32:79 (January 2006).

§4107. Training Payments

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:64 (February 1982), amended LR 11:252 (March 1985), repealed LR 32:79 (January 2006).

§4109. Unawarded Funds

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:64 (February 1982), amended LR 11:252 (March 1985), repealed LR 32:79 (January 2006).

§4111. Local Block Training Funds

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 11:252 (March 1985), repealed LR 32:79 (January 2006).

§4113. Subgrants

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:64 (February 1982), amended LR 11:252 (March 1985), repealed LR 32:79 (January 2006).

Chapter 45. Guidelines

§4501. Limitations

A. Any thing in this guidance that is in conflict with applicable federal law, regulation or guidance, or with applicable state law shall not prevail.

B. All funding received by an agency, department, or organization may be subject to budget reductions as applied against LCLE by the funding authority under which the subgrant is received.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 32:79 (January 2006).

§4503. Eligibility

A. Eligibility to apply or receive funding under any subgrant subject to this Subpart shall be governed by the applicable federal law, rules and guidance, or state law and operational policies of the commission.

B. By a two-thirds vote, the commission may waive any restrictions on eligibility made pursuant to the commission's operational policies, provided such waiver does not violate federal law, rules, or guidance, or, in the case of state funded grant programs, state law or rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:64 (February 1982), amended LR 11:253 (March 1985), LR 32:79 (January 2006).

§4505. Indirect Costs

A. Indirect costs are ineligible expenditures under any state grant program, unless specifically permitted by the law creating such program.

B. Indirect costs on federal subgrants are subject to federal guidance and may be limited further by the respective advisory boards. Indirect costs are not to exceed 10 percent of direct labor costs including fringe benefits, or 5 percent of total direct costs. A current Indirect Cost Rate or Allocation Plan previously approved by the cognizant federal agency must be on file with LCLE before submittal of applications to the respective advisory boards. Indirect costs are prohibited for Crime Victim Assistance projects.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:63 (February 1982), amended LR 11:253 (March 1985), LR 32:80 (January 2006).

§4507. Regional Planning Units and Criminal Justice Coordinating Councils

A. No subgrant funds may be used for the expenses of Regional Planning Units (RPU's) or Criminal Justice Coordinating Councils (CJCC's). This provision does not prohibit the award of a subgrant to a RPU or CJCC for specific purposes not related to the normal operations of those offices.

B. The commission may make direct grants of administrative funds to RPU's or CJCC's. Any such grants are subject to reduction based on reductions received by LCLE from the responsible funding authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:63 (February 1982), amended LR 11:253 (March 1985), LR 32:80 (January 2006).

§4509. Funding Restrictions

A. No traffic-related subgrants will be eligible, with the exception of driving while intoxicated (DWI) and substance abuse related projects.

B. There is a general prohibition on the funding of the following items:

1. vehicles (automobiles, vans, airplanes, boats, etc.), gasoline, tires, vehicle repair, maintenance, or insurance;
2. automobile accessories except radio and information technology equipment;
3. uniforms;
4. recreational equipment;
5. real property;
6. lobbying activities or the design, development, publishing or distribution of politically oriented material.

C. There are specific restrictions limiting the funding of the following items.

1. Renovations are limited to a maximum of \$25,000, and then will be allowable only on agency-owned or long-term lease (five years or more) facilities.

2. Consultants are limited to planning, evaluation, research, development and training programs. Consultant services that are available as no-cost technical assistance through a federal or state program are not eligible for funding. Consultant contracts and agreements must receive approval from LCLE, prior to the release of funds.

D. There are special requirements relative to the following.

1. Private, Non-Profit Agencies. Private, non-profit agencies, with the exception of an RPU or CJCC, will be required to have a current surety bond equal to the amount of the grant.

2. Confidential Funds. The use of confidential funds is subject to special operational policies and regulations of the LCLE and federal guidelines.

3. Information Reporting. State and local criminal justice agencies must comply with all requests for information mandated by LCLE. This requirement includes full participation in the Uniform Crime Reporting Program for those agencies eligible to report, including participation in the Louisiana Incident Based Crime Reporting System when appropriate.

4. Travel Expenses. All travel expenses will be based on state travel regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:64 (February 1982), amended LR 11:252 (March 1985), LR 32:80 (January 2006).

§4511. Operational Policies

A. The various program advisory boards may recommend to the commission, or the commission may adopt on its own motion, specific operational policies relative to the funding of specific project types, eligibility for funding, or additional restrictions and/or limitations on funding, as well as monitoring, evaluation, or reporting requirements as deemed prudent in the administration of specific grant funds. Such regulations shall be in conformity and not inconsistent with these general guidelines, or with applicable state or federal law, regulation, or rules. Such operational guidelines shall be reviewed by the commission at least once every four years and adopted by a two-thirds vote. The commission may waive such operational policies provided the potential subgrantee has made written request for such a waiver and the waiver granted by a two-thirds vote of the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 32:80 (January 2006).

§4513. Funding Restrictions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of

Criminal Justice, LR 8:63 (February 1982), amended LR 11:253 (March 1985), repealed LR 32:80 (January 2006).

§4515. Renovation

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:63 (February 1982), amended LR 11:253 (March 1985), repealed LR 32:81 (January 2006).

§4517. Private, Non-Profit Agencies

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:63 (February 1982), amended LR 11:253 (March 1985), repealed LR 32:81 (January 2006).

§4519. Consultants and Contracts

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:63 (February 1982), amended LR 11:253 (March 1985), repealed LR 32:81 (January 2006).

§4521. No-Cost Technical Assistance

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:63 (February 1982), amended LR 11:253 (March 1985), repealed LR 32:81 (January 2006).

§4523. Confidential Funds

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:64 (February 1982), amended LR 11:253 (March 1985), repealed LR 32:81 (January 2006).

§4525. Reimbursement for Basic Training Tuition

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:64 (February 1982), amended LR 11:253 (March 1985), repealed LR 32:81 (January 2006).

§4527. Universities

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:64 (February 1982), amended LR 11:253 (March 1985), repealed LR 32:81 (January 2006).

§4529. Agency on Peace Officer Standards and Training (POST) Council Notice

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:64 (February 1982), amended LR 11:253 (March 1985), repealed LR 32:81 (January 2006).

§4531. Eligibility

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:64 (February 1982), amended LR 11:253 (March 1985), repealed LR 32:81 (January 2006).

§4533. Travel Expenses

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:63 (February 1982), amended LR 11:253 (March 1985), repealed LR 32:81 (January 2006).

§4535. Lobbying

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:64 (February 1982), amended LR 11:253 (March 1985), repealed LR 32:81 (January 2006).

§4537. Politically Oriented Material

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:64 (February 1982), amended LR 11:253 (March 1985), repealed LR 32:81 (January 2006).

§4539. Child Abuse/Neglect Projects

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:64 (February 1982), amended LR 11:253 (March 1985), repealed LR 32:81 (January 2006).

§4541. Computers

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:64 (February 1982), amended LR 11:253 (March 1985), repealed LR 32:81 (January 2006).

§4543. Requirement Analysis

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:64 (February 1982), amended LR 11:253 (March 1985), repealed LR 32:81 (January 2006).

Subpart 6. Program Operational Policies

Chapter 59. Drug Policy and Violent Crime Advisory Board

§5901. Adoption

A. The following operational policies are hereby adopted by the Drug Policy and Violent Crime Advisory Board pursuant to LAC 22 Part III Subpart 3 Chapter 45, §4511 and shall be effective upon approval of the Louisiana Commission on Law Enforcement as provided therein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 32:81 (January 2006).

§5903. Introduction

A. All programs assigned by the commission to the Drug Policy and Violent Crime Advisory Board shall be governed by the rules set forth in this Section, unless explicitly removed from one or more of them by a vote of the commission upon the recommendation of the Drug Policy and Violent Crime Advisory Board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 32:82 (January 2006).

§5905. Program Rules

A. Governance. The rules and governance of the federal grant program shall be followed in all cases. Should federal programs be assigned to the Drug Policy and Violent Crime Advisory Board, which are more restrictive than those contained in this Section, the federal rule shall prevail. Subgrantees are responsible for compliance with all federal and state governance, regulations, and certifications applicable to their subgrant.

B. Match

1. All grant programs shall be matched in an amount not less than 25 percent of the total grant award.

2. Grants may be matched on an aggregate or statewide basis.

C. Funding

1. Administrative funds may be allocated from the total block grant Award in an amount not to exceed the maximum established in the federal guidance.

2. After administrative funds are allocated, no more than 25 percent of the block grant funds may be allocated to state agencies or departments, unless otherwise required by the applicable federal guidance.

3. The remaining allocations shall be distributed among the Regional Planning Districts as determined by the most recent formula adopted by the commission, unless otherwise specified in the federal guidance.

4. A minimum of 5 percent of the total block grant, exclusive of administrative funds, shall be for criminal record improvement programs.

D. Programs

1. All applications for funding shall specify a program, and not merely equipment or supplies.

2. Equipment and supplies are fundable items unless otherwise specified in the operational policies, but must be part of a program.

3. Eligible programs shall be defined in the operational policies of the Drug Policy and Violent Crime Advisory Board. When the operational policies are silent, the federal eligibility requirements shall serve as the determining governance. The operational policies may be more restrictive but not more inclusive than the federal guidance, unless otherwise stipulated in the federal guidance.

4. No program shall receive funding for a period greater than 48 months, with the exception of Criminal

Records Improvement projects, training, and multi-jurisdictional task forces.

E. Waiver. The commission may waive any of the policies contained in this Section provided:

1. an agency or organization eligible to receive funding under the applicable federal guidance submits a written request for waiver to the drug policy and Violent Crime Advisory Board; and

2. the Drug Policy and Violent Crime Advisory Board votes to recommend the waiver to the commission; and

3. the commission approves the waiver by a two-thirds vote of the members present and voting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 32:82 (January 2006).

Chapter 61. Policies and Procedures [formerly Chapter 49]

§6101. VOCA and VAWA Grants

[formerly §4901. Introduction]

A. The issues of services to victims of crime, underserved victims and an increased awareness of the prevalence and severity of domestic violence and violence against women coupled with the increased availability of federal funds to address these issues at the state, regional and local levels, have led to federal grant programs designed to focus on these topics. The Louisiana Commission on Law Enforcement has been named as the cognizant state agency for the federal programs and will make available to appropriate non-profit and public agencies grant funds, to be spent in accordance with federal program guidelines and the guidelines of the Victim Services Advisory Board and the Louisiana Commission on Law Enforcement.

B. The Victims of Crime Act of 1984 (VOCA) established within the U.S. Treasury an account funded by federal fines, penalties and forfeited bail bonds to be used for the purpose of funding victim assistance grants to the states. These grants are to be used for programs that provide direct services to victims of crime, with priority given to programs that have as their principal mission direct assistance to victims of sexual assault, spouse abuse, child abuse and previously underserved victims of crime. VOCA funds in the state are administered by the Louisiana Commission on Law Enforcement in consultation with the Victim Services Advisory Board to the Commission. The VOCA program in Louisiana is administered pursuant to the federal regulations in effect for the program.

C. For more information, interested persons may contact the Victim Services Section of the Louisiana Commission on Law Enforcement.

D. The Violence Against Women Act (VAWA) of 1994 is enabling legislation that has as its intent the reduction of violence to encourage states and localities to restructure and strengthen their criminal justice response to this issue and to be proactive in dealing with the problem of domestic violence. The STOP (Services-Training-Officers-Prosecution) Program is the implementation aspect of VAWA and seeks to develop and strengthen effective law enforcement and prosecution strategies to combat violent crime against women and to develop and strengthen victim services in cases involving violent crimes against women.

Unlike VOCA, monies are appropriated by Congress for this program. These funds are divided equally between law enforcement, prosecution and non-profit service providers and are administered by the Louisiana Commission on Law Enforcement in consultation with Victim Services Advisory Board. The VAWA program in Louisiana is administered pursuant to the federal regulations in effect for the program.

E. For more information, interested persons may contact the Victim Services Section of the Louisiana Commission on Law Enforcement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and 1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 15:1071 (December 1989), amended LR 29:2376 (November 2003), repromulgated LR 32:82 (January 2006).

Subpart 7. Asset Forfeiture

Chapter 71. Code of Professional Conduct [formerly Chapter 61]

§7101. Adoption [formerly §6101]

A. The Louisiana Commission on Law Enforcement and Administration of Criminal Justice has adopted a code of professional conduct for asset forfeiture at a meeting held Tuesday, December 2, 1997.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 24:935 (May 1998), repromulgated LR 32:83 (January 2006).

§7102. Introduction [formerly §6102]

A. The purpose of the *Code of Professional Conduct* is to establish ethical standards applicable to asset forfeiture programs throughout the state of Louisiana. These standards are similar to the *National Code of Professional Conduct for Asset Forfeiture*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 24:935 (May 1998), repromulgated LR 32:83 (January 2006).

§7103. Code of Professional Conduct [formerly §7103]

A. Law enforcement is the principal objective of forfeiture. Potential revenue must not be allowed to jeopardize the effective investigation and prosecution of criminal offenses, officer safety, the integrity of ongoing investigations, or the due process rights of citizens.

B. A prosecutor's or sworn law enforcement officer's employment or salary shall not be contingent upon the level of seizures or forfeitures he or she achieves.

C. Whenever practical, and in all cases involving real property, a judicial finding of probable cause shall be secured when property is seized for forfeiture. Seizing agencies shall strictly comply with all applicable legal requirements governing seizure practice and procedure.

D. A judicial finding of probable cause must be secured as provided by law.

E. Seizing entities shall have a manual detailing the statutory grounds for forfeiture and all applicable policies and procedures.

F. The manual shall include procedures for prompt notice to interest holders, the expeditious release of seized

property where appropriate, and the prompt resolution of claims of innocent ownership.

G. All property forfeited must be sold at public sale, and the proceeds distributed according to law.

H. Unless otherwise provided by law, forfeiture proceeds shall be maintained in a separate fund or account subject to appropriate accounting controls and annual financial audits of all deposits and expenditures.

I. Seizing agencies shall strive to ensure that seized property is protected and its value preserved.

J. Seizing entities shall avoid any appearance of impropriety in the sale or acquisition of forfeited property.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 24:935 (May 1998), repromulgated LR 32:83 (January 2006).

Michael A. Ranatza
Executive Director

0601#054

RULE

Office of the Governor Division of Administration Board of Architectural Examiners

Use of the Term "Associate" (LAC 46:I.1513)

Under the authority of R.S. 37:144(C) and in accordance with the provisions of R.S. 49:951 et seq., the Board of Architectural Examiners ("board") amended LAC 46:I.1513 pertaining to an architectural firm using the word "associate" in its title. The existing Rule provides that an architectural firm using the plural form of the word "associate", but which loses an associate or associates so that it is no longer able to do so, is not required to change its name for a period of two years from the departure of the associate. The amended Rule provides that such a firm is required to change its name as soon thereafter as is reasonably possible, which change shall occur not later than one year from the departure of the associate or associates.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part I. Architects

Chapter 15. Titles, Firm Names and Assumed Names §1513. Use of the Term "Associate"

A. An architect may only use the word "associate" in the firm title to describe a full time officer or employee of the firm. The plural form may be used only when justified by the number of associates who are full time firm employees. An architectural firm using the plural form, but which loses an associate or associates so that it is no longer able to do so, is required to change its name as soon thereafter as is reasonably possible, which change shall occur not later than one year from the departure of the associate or associates. Identification of the associates in the firm title, listing, publication, letterhead, or announcement is not required.

Allowed	Not Allowed
John Smith & Associates, Architecture & Planning John Smith, Architect	John Smith & Associates Architects (if the firm employs only one associate as defined herein)
John Smith & Associates, Architect John Smith, Architect	

AUTHORITY NOTE: Promulgated and amended in accordance with R.S. 37:144-45.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners, LR 29:569 (April 2003), amended by the Office of the Governor, Division of Administration, Board of Architectural Examiners LR 32:83 (January 2006).

Mary "Teeny" Simmons
Executive Director

0601#012

RULE

Office of the Governor Division of Administration Office of State Uniform Payroll

Payroll Deduction (LAC 4:III.Chapter 1)

In accordance with R.S. 42:455, notwithstanding any other provision of law to the contrary, the Office of the Governor, Division of Administration, Office of State Uniform Payroll is adopting the following amendments to the regulations governing payroll deductions. The purpose of the amendment is to adopt changes as recommended by the Uniform Payroll Insurance Commission, to reorganize the sections of the rule to eliminate repetitive details, and to further define and clarify parameters for vendors.

Title 4

ADMINISTRATION Part III. Payroll

Chapter 1. Payroll Deductions

§101. Definitions

Administrative Contract—contractual agreement entered into by the state with an entity which meets or exceeds the requirements to manage a Flexible Benefits Plan.

Administrative Coordinator—a statewide vendor designated representative who provides the single authorized contact for communication between the vendor and state departments/agencies, company representatives, the Division of Administration, Office of State Uniform Payroll, payroll systems outside of the ISIS HR payroll system and any administrative contract(or).

Agency Number—three digit identifier representing a single agency in the ISIS HR payroll system which serves as a key for processing and reporting.

Annual Renewal Application—the process through which a statewide vendor requests continued deduction authorization by providing verification of company status, employee participation, remittance reconciliation, designated coordinator, etc.

Applicant—any entity which has submitted an application to be approved as a statewide vendor for state payroll deduction or a statewide vendor which has submitted an application for approval of an additional product.

Billing Coordinator—statewide vendor representative appointed by the Administrative Coordinator to handle the areas of billing, reconciliation problems and refunds.

Data File—the body of information documented by copies of correspondence between the Office of State Uniform Payroll, the Office of Group Benefits, administrative contractor, departments/agencies, vendors, Department of Insurance, and state employees relative to employee solicitation, participation and service from vendors.

Deduction—any voluntary reduction of net pay under written authority of an employee, which is not required by federal or state statute, or by court ordered action.

Department/Agency—as referenced herein shall be any one of the major departments of the executive branch of state government or any subdivision thereof as defined under R.S. 36:4.

Department Head—as referenced herein shall be any elected official, department secretary or their designee for those agencies as defined under R.S. 36:4.

Division of Administration (DOA)—the Louisiana State Agency under the Executive Department which provides centralized administrative and support services to state agencies as a whole by developing, promoting, and implementing executive policies and legislative mandates.

Employee Payroll Benefits Committee (EPBC)—the group designated in §103 to review current and prospective payroll deduction benefits.

Entity—the individual or organization which renders service, provides goods, or guarantees delivery.

Flexible Benefits Plan (FBP)—the program initiated by the state under which employees may participate in tax reduction benefits offered under Internal Revenue Code (IRC) §125.

Flexible Benefits Plan Year—the annual period of time designated for participation (e.g., July 1 through June 30).

Governing Board—as referenced herein shall mean any one or all of: Board of Regents; Louisiana State University Board of Supervisors; Southern University Board of Supervisors; University of Louisiana Board of Supervisors; and Board of Supervisors of Community and Technical Colleges.

Guidelines for Review—as referenced herein shall mean the set of criteria established for the annual evaluation process.

Insurable Interest—as referenced herein shall be as defined in R.S. 22:613.C.(1) and (2), e.g., an individual related closely by blood or by law, or a lawful and substantial economic interest in having the life, health or bodily safety of the individual insured continue.

Integrated Statewide Information System Human Resource Payroll System (ISIS HR)—the statewide system administered by the Division of Administration, Office of State Uniform Payroll to provide uniform payroll services to state agencies.

Intra-Agency Deduction—a deduction established by the department/agency for cost effective collection of funds from employees for benefits provided, such as meals, housing, uniforms, etc.

Intra-Agency Vendors—any entity having the Office of State Uniform Payroll's approval for an intra-agency deduction.

Louisiana Sales Coordinator—statewide vendor representative appointed by the Administrative Coordinator to handle the areas of solicitation and educational responsibilities.

New Application—the process through which an entity submits a request to be approved as a statewide vendor to offer a specific product, or a current statewide vendor requests authorization to offer an additional product, policy form, or service plan.

Office of State Uniform Payroll (OSUP)—the section within the Division of Administration primarily responsible for the administration of the rules governing state employee payroll deductions.

Policy Form—referenced herein shall mean a contract of an individual insurance plan, and all its components, which is submitted to the Department of Insurance and subsequently approved for sale in Louisiana by the Commissioner of Insurance.

Premium Due—the amount of money the vendor expects to receive for the product or service provided to the employee.

Product—referenced herein shall mean the specific insurance authorized through the statewide vendor annual renewal or new application process as defined in §106. This may include multiple policy forms and service plans under the product.

Product Code—the code assigned by the Office of State Uniform Payroll to specific products authorized through the new application process.

Reconciliation—referenced herein refers to the resolution of differences resulting from a monthly match or comparison of vendor accounts receivable/invoice records to the state deduction/remittance records at the product level.

SED-3—referenced herein shall be the standard form, Department Request for Payroll Deduction Vendor, required to be submitted with any new application.

SED-4—as used herein shall mean the standard State Employee Payroll Deduction Authorization form developed by the Division of Administration, Office of State Uniform Payroll used to process employee statewide vendor deductions.

Service Plan—plans of insurance where benefits are the actual services rendered to the covered individual rather than a monetary benefit.

Statewide Vendors—any entity having deductions other than statutory or intra-agency specific.

Statutory Vendors—any entity having deductions mandated or permitted by federal or state statute which includes, but is not limited to union dues, credit unions, IRC §457 and §403(b) plans, health and life insurance products sponsored by the Office of Group Benefits, retirement systems, Student Tuition Assistance and Revenue Trust Program (START), qualified United Way entities and savings bonds.

University—any one of the state higher education facilities which falls under the jurisdiction of appropriate "Governing Board."

Vendor Representative—as referenced herein shall be any licensed agent or duly appointed representative designated by a vendor to market that vendor's authorized product(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), LR 26:1026 (May 2000), LR 32:84 (January 2006).

§102. Deduction Rule Authority/Applicability

A. OSUP is responsible for the administration of the rules governing state employee payroll deductions. Products that are authorized through OSUP are for all state employees and all state agencies of the executive branch of state government as defined under R.S. 36:4. There are two exceptions to this.

1. Governing boards of higher education facilities have the authority to approve additional products or remove any product per the boards' established policies.

a. Vendors approved by governing boards must follow the governing boards policy and procedures for renewal and new application submission.

b. Each Governing Board shall provide a report relative to vendors currently approved for deductions within each system as well as any additional information as requested by OSUP.

2. Intra-agency deductions approved by OSUP are only approved for the agency requesting the deduction and not statewide.

B. The three classifications of vendors covered by this rule are:

1. statutory vendors—applicable Sections of this rule are §122, 131 and 137;

2. intra-agency vendors—applicable Sections of this rule are §122, 131 and 137; and

3. statewide vendors—applicable Sections of this rule are §106, 112, 114, 119, 131 and 137. Statewide vendor applications are reviewed and approved by the EPBC.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 32:85 (January 2006).

§103. Employee Payroll Benefits Committee (EPBC)

A. A committee comprised of 12 nominated and two ex-officio state employees of the departments of the executive branch of state government as defined under R.S. 36:4.A and the Office of the Governor established by the Commissioner of Administration to fulfill the requirements of §106 and §112 of this rule. Ex-officio members shall be: director or assistant director of OSUP and a designee of the Commissioner of Insurance.

B. Initial members of the EPBC were selected prior to July 1, 1996 by the Uniform Payroll System Payroll Steering Committee submitting a list of nominees for EPBC membership to the Commissioner of Administration.

C. Members serve staggered terms as follows:

1. 4 members, one-year term;

2. 4 members, two-year term; and

3. 4 members, three-year term.

D. There cannot be more than one committee member per department of the executive branch of state government as defined under R.S. 36:4.A or the Office of the Governor.

E. Successive committee appointments shall be for a period of three years beginning July 1.

F. Prior to May 1, annually, EPBC shall submit, to the Commissioner of Administration, three nominees for each of the four vacancies which will occur each year.

G. The Commissioner of Administration shall select four of the nominees to fill respective department/agency vacancies for EPBC membership.

H. The Commissioner of Administration shall return a list of appointees to OSUP prior to June 1 each year.

I. Any EPBC vacancy which occurs due to termination of employment or retirement of a member, and which creates a vacancy for a period of 12 months or more, shall be filled by appointment by the Commissioner of Administration.

1. Within 30 days of notice of the vacancy, the EPBC shall submit a nominee for replacement to the Commissioner of Administration.

2. The Commissioner of Administration shall affirm or reject the nomination within 30 days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 22:22 (January 1996), amended LR 26:1026 (May 2000), LR 32:85 (January 2006).

§105. EPBC Selection and Tenure

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 22:22 (January 1996), amended LR 26:1026 (May 2000), repealed LR 32:86 (January 2006).

§106. Statewide Vendor Annual Renewal and New Application Process

A. All currently approved statewide vendors shall file an annual renewal application with the Division of Administration, Office of State Uniform Payroll as scheduled by that office.

B. Written notice of requests for a new statewide vendor payroll deduction or for current vendors to add additional products or to add additional policy forms or service plans under the current products should be sent to OSUP prior to December 1 annually, in order for the vendor to receive an application form from OSUP. Applications for the purpose of providing deductions for IRA's, annuities, noninsurance investment programs or group plans are not permitted.

C. On or before January 1 annually, OSUP will provide deduction application forms along with instructions for completion to each renewal and new entity on file.

D. On or before January 31 annually, Renewal and New Applications must be completed and submitted to the Division of Administration, Office of State Uniform Payroll, PO Box 94095, Baton Rouge, LA 70804 or 1201 N. Third St, Ste 6-150, 70802.

1. Application shall be made by the entity which is the provider of the product or recipient of monies and shall be signed by two principal officers of the applicant entity.

2. The application shall:

a. be submitted on a currently approved application form provided by OSUP to the vendor;

b. indicate whether the application is an annual application (renewal) or a new application for a product, policy form or service plan not previously approved for deduction;

c. identify each policy form for specific product provided on the application form;

d. include certification (SED-3 form) from the department head of the requesting department for new applications. Department certification attests that said applicant has provided evidence that the vendor meets or exceeds the requirements of R.S.42:455, that said applicant has knowledge of the requirements of this rule, and that the department/agency believes this product/policy/service plan would be a benefit for the employees of the department/agency. Certification does not represent endorsement of product by state or department. Administrative responsibilities of this rule shall preclude the DOA from sponsoring applicants for vendor deduction authorization;

e. indicate whether the request is for participation within a specific department/agency by choice (ability to service or applicability), or for statewide authority limited to certain payroll system(s);

f. designate an "administrative coordinator" to represent the vendor as primary contact. Refer to Statewide Vendor Requirements and Responsibility §114 for complete details;

g. include responses to all applicable items (designated in instructions) on the application form for new and annual renewal applications.

E. On or before April 1 each year, OSUP will conduct a compliance review and shall notify vendors of any products that will be removed due to not meeting the participation requirements in §114.C.3. In a separate letter, the vendor will be notified whether their annual application has been conditionally approved.

F. Between February and October each year, the EPBC shall conduct a thorough review of all products authorized for deduction and new applications.

1. EPBC shall maintain basic guidelines for review to follow in the conduct of the annual review of statewide vendor products. These guidelines are on file at OSUP and available upon request.

2. The EPBC shall utilize the data file maintained by OSUP to evaluate user satisfaction with products and vendors and the Guidelines for Review to evaluate product quality.

a. OSUP shall maintain a data file of documentation provided each year by user agencies, employees, vendors, and FBP administrator relative to product utilization, services provided, and adherence to department/agency policy and this rule.

b. OSUP shall copy to the data file all correspondence relating to resolution of problems with and between vendors, employees, and departments/agencies.

c. OSUP shall include the basic information from annual application process and from new applications in the data file provided to EPBC.

3. Vendor shall respond to all additional questions as required by EPBC.

G. On or before October 1 annually, the EPBC shall issue a summary report of opinions resulting from the annual review of products and new applications, along with recommended actions to the Commissioner of Administration.

H. OSUP shall provide the Commissioner of Administration recommendations from EPBC and information relative to vendor/product compliance with all other provisions of this rule.

I. On or before November 1 annually, the Commissioner of Administration shall advise OSUP whether EPBC recommendations relative to current products and new applications have been accepted or denied.

J. On or before November 30 annually, OSUP will:

1. notify those vendors with new applications whether their requests were approved or denied. Approval of an applicant in no way constitutes endorsement or certification of the applicant/vendor by the state;

2. notify the affected vendors if any problems were identified during the EPBC review and advise on any necessary actions;

3. notify ISIS HR payroll system user agencies and other departments/agencies and Governing Boards of authorized deductions by vendor and product name, providing ISIS HR system information and the effective date. Governing Boards shall notify universities.

K. Payroll systems outside of the ISIS HR payroll system will advise vendors whether the deduction will be established.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 32:86 (January 2006).

§107. EPBC Product Evaluation (Requirements)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 22:22 (January 1996), amended LR 26:1026 (May 2000), repealed LR 32:87 (January 2006).

§109. EPBC Product Evaluation (Annual Applications)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 22:22 (January 1996), amended LR 26:1027 (May 2000), repealed LR 32:87 (January 2006).

§111. EPBC Product Evaluation (New Applications)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 22:22 (January 1996), amended LR 26:1027 (May 2000), repealed LR 32:87 (January 2006).

§112. Statewide Vendor Requests for Enhancements/Changes to Products

A. Requests for enhancements to existing statewide vendor products, policies or service plans must be submitted to OSUP for review and approval by May 1 and November 1 annually.

1. Enhancements to policies occur when:

a. a vendor requests to broaden an existing, solicited policy's benefits/coverage;

b. a vendor requests the existing, solicited policy to be replaced by the enhanced policy;

c. the vendor stops soliciting the existing policy;

d. current policyholders may choose to keep the existing policy or convert to the enhanced policy; and

e. new policyholders must purchase the enhanced policy.

2. OSUP and the EPBC will review the request and notify the vendor of approval or denial by July 1 and January 1 annually.

a. If approved, OSUP will include in the approval notification the procedures for implementing the enhancement for August 1 and February 1 annually.

b. If denied, OSUP will add the vendor to the file of vendors for new applications. (See §106 for new application process).

B. Notification of policy changes must be submitted to OSUP by December 1 annually.

1. Changes, including but not limited to, rate changes, co-payment changes and reduction in benefits occur when:

a. a vendor requests an existing, solicited policy to be changed;

b. current policyholders must choose to either accept the changed policy or terminate the policy; and

c. new policyholders must purchase the changed policy.

2. OSUP will review the information submitted and notify the vendor by February 28 annually and provide procedures for implementing the policy change for July 1 annually.

3. Policy changes not submitted to OSUP will not be allowed.

C. Requests that do not meet an enhancement or a change classification, will be reviewed by OSUP to determine what procedures the request will follow.

D. Requests for exceptions to this policy shall be justified, documented and submitted in writing to OSUP for consideration.

E. OSUP will coordinate procedures with vendors on all policy changes that are mandated by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 26:1027 (May 2000), LR 32:87 (January 2006).

§113. Product Approval and Notification

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 22:22 (January 1996), amended LR 26:1027 (May 2000), repealed LR 32:87 (January 2006).

§114. Statewide Vendor Requirements and Responsibility

A. Any statewide vendor applicant for deduction, domestic or foreign, regulated by the Department of Insurance shall meet the minimum requirements set forth in R.S. 42:455.

B. Statewide vendor applicants for deductions not regulated by the Department of Insurance shall:

1. possess appropriate license or other required certification for providing the particular product or service for a fee;
2. have been doing business in this state for not less than five years providing the product and/or services anticipated to be offered state employees;
3. be in compliance with all requirements of any regulatory and/or supervisory office or board charged with such responsibility by state statute or federal regulations;
4. provide to the Commissioner of Administration within 30 days of approval an irrevocable Letter of Credit in the amount of \$100,000, or an irrevocable pledge of a Certificate of Deposit in the amount of \$100,000 to protect the state and any officer or employee from loss arising out of participation in the program or plan offered by the vendor.

C. Vendors shall:

1. provide annual renewal application as set forth in §106 of this rule;
2. maintain the requirements set forth in A. and B. of this section;
3. maintain individual product (product categories as defined by OSUP) participation levels that meet or exceed 100 employees paid through the ISIS HR payroll system. Vendors will be allowed twelve months after initial product approval to meet the minimum product participation requirements;
4. solicit employees for payroll deduction only:
 - a. after notification to the vendor and state department/agencies from OSUP that the product has been approved;
 - b. upon written authorization and within the solicitation policy established by the department/agency; and
 - c. for those products, policy forms or service plans submitted and approved in the annual renewal or new application process.
5. provide and use the standard deduction authorization form (SED-4) authorized by OSUP using the guidelines below:
 - a. deduction form is not authorized to be submitted from an employee for the purpose of transmitting any part of that deduction to a non-approved vendor;
 - b. deduction form shall not be submitted which lists any product or service for which a product code has not been approved;
 - c. deduction form may include additional information provided that such information shall not represent a disclaimer or escape clause(s) in favor of the vendor. The authorization shall not stipulate any "contract" or "term of participation" requirements;
 - d. the authorization must specify product name, IRC §125 eligibility, monthly premium or fee, and the semi-monthly (24 annually) premium or fee. Statewide vendor deductions in the ISIS HR payroll system must be semi-monthly deduction amounts only (to the second decimal place). Payroll systems outside of the ISIS HR payroll system which permit monthly deductions may continue same;
 - e. an employee shall have only one deduction authorization (which may cover more than one product/policy) for a single vendor effective at any one time. Total current deduction amount and each component amount

that make up that total must be reflected on any successive form(s);

- f. vendor shall be responsible for completing authorization forms prior to obtaining employee signature and for submitting forms to the appropriate payroll office designated by each employing department/agency;
- g. deduction forms must contain appropriate agency number to support monthly reconciliation process;
- h. deduction authorization shall not be processed for any employee which is intended to provide a benefit for any party for whom the employee has no insurable interest;
- i. employee deduction authorization shall not be transferred by an approved vendor to another vendor without special approval from the Commissioner of Administration;
- j. an employee may discontinue a voluntary statewide vendor policy/service at any time by following OSUP and department/agency policy. Any deduction amount that is committed for participation in a current FBP year will continue to be deducted, but will be paid to the state of Louisiana;
6. follow procedures established by OSUP policy when refunding payroll deducted and remitted premiums to employees and §112 for requesting changes to existing products;
7. use invoice/billing identification structure that is compatible with payroll agency numbers to facilitate the monthly reconciliation;
8. be responsible for preparing a reconciliation of monthly payroll deduction/remittances to vendor's monthly premium due:
 - a. monthly reconciliation shall include total monthly premium due amount, each product amount and code as assigned by OSUP that makes up the total amount of premium due, total remittance amount, and a listing of all exceptions between the premium due and deduction/remittance by employee within billing/payroll agency numbers;
 - b. monthly reconciliation exception listing shall identify the employee by Social Security number and payroll agency number and shall be grouped within payroll agency numbers for ISIS HR payroll system agencies and similarly for payroll systems outside of the ISIS HR payroll system;
9. furnish evidence of reconciliation to OSUP as requested by that office. Like verification may be required by other payroll systems outside of the ISIS HR payroll system;
10. provide written notification within ten days of any change in the name, address, entity status, principal officers, designated administrative coordinator, appointed Louisiana sales coordinator and appointed billing coordinator to OSUP;
11. provide written notification of the dismissal of any vendor representative participating in state deduction to OSUP. Any vendor representative who has been debarred by a vendor from state participation shall not be allowed to represent any vendor for deduction for a minimum of two years thereafter.

D. Vendor administrative coordinator shall:

1. be responsible for obtaining solicitation authorization and department policy from the department head or his designee;

2. appoint a vendor representative, if preferred, to be the "Louisiana sales coordinator" to handle the areas of solicitation and educational responsibilities;

3. be responsible for dissemination of information such as the requirements of this rule and department/agency policy and procedures to vendor representatives;

4. act as liaison for the vendor with any administrative contract(or) and the state relative to FBP participation;

5. be the primary contact for resolution of billing, refund, and reconciliation problems; and resolving claims problems for employee;

6. appoint a vendor representative, if preferred, to be the "Billing Coordinator" to handle the areas of billing, refunds and reconciliation problems.

E. Vendors, applicants, and any representatives thereof shall be prohibited from any action intended to influence the opinion or recommendation of any EPBC member.

F. Vendors may be debarred by a department/agency from solicitation within that department/agency for violation of this section or OSUP policy.

G. Vendors may be debarred from solicitation statewide by OSUP for violation of this section or OSUP policy.

H. Unethical conduct or practices of the vendor will result in the termination of payroll deduction authority for that vendor. Unethical or unprofessional conduct of any vendor representative shall result in that individual being debarred from participation in state deduction for any vendor.

I. Deduction authority shall be revoked for any vendor that fails to maintain compliance with provisions of R.S. 42:455 or the requirements of this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 32:87 (January 2006).

§115. Application Process

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), amended LR 26:1028 (May 2000), repealed LR 32:89 (January 2006).

§117. Applicant and Vendor Requirements

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), LR 26:1028 (May 2000), repealed LR 32:89 (January 2006).

§119. Rule Transition

A. Any statewide vendor receiving payment through payroll deduction on the effective date of this rule shall continue to be approved as a vendor until the next annual renewal process if requirements of §114 are met.

B. Statewide vendors currently participating in deductions which do not meet the minimum participation requirements set forth in §114.C.3 of this rule by December 31, 2005 will be denied deduction privileges.

C. Entities which have submitted requests for consideration of deduction participation shall not be exempted from compliance with any part of this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), LR 26:1029 (May 2000), LR 32:89 (January 2006).

§121. Deduction Authorization Form

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), amended LR 19:318 (March 1993), LR 22:22 (January 1996), LR 26:1029 (May 2000), repealed LR 32:89 (January 2006).

§122. Statutory and Intra-Agency Vendor Information

A. Statutory vendors must:

1. provide data such as vendor contact information to OSUP upon request; and

2. upon request, submit to OSUP for approval their deduction authorization agreement (format and content).

a. Employee authorization agreements shall not stipulate any "contract" or "term of participation" requirements. However, employees may designate a 'cap' or annual maximum for a charitable organization deduction authorized by R.S. 42:456.

b. If employee electronic authorization is approved by OSUP, the vendor will be responsible for retaining for audit purposes authorized agreements with employees.

B. Intra-Agency vendors.

1. Department/agency requesting an intra-agency specific deduction must submit a written request to OSUP and include:

a. certification that the collection of funds from employees through payroll deduction for meals, housing, uniforms, etc. is cost effective for the agency; and

b. an explanation of need which is to include the number of employees that will participate.

2. Intra-agency vendors must provide data such as vendor contact information to OSUP upon request.

3. There will be no additional requests for agency associations accepted by OSUP after the effective date of this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 32:89 (January 2006).

§123. Solicitation of State Employees

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), repromulgated LR 26:1030 (May 2000), repealed LR 32:89 (January 2006).

§125. Vendor Responsibility

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), LR 26:1030 (May 2000), repealed LR 32:89 (January 2006).

§127. Department/Agency Responsibility

A. Department head or his designee shall:

1. approve or reject requests for solicitation authorization presented only by designated coordinators of approved statewide vendors;

2. confirm with the vendor administrative coordinator (and/or Louisiana Department of Insurance when applicable) the credentials of any vendor agent not represented to the department by the vendor administrative coordinator;

3. provide vendor administrative coordinators a copy of department/agency policy relative to receipt, processing, and cancellation of payroll deduction forms, as well as guidelines prior to permitting access to employees;

4. certify the use of any intra-agency deduction, to collect funds from employees for meals, housing, uniforms, etc., is required by and is a benefit to the agency/department; and

5. provide support for participation of selected EPBC members.

B. Department/agency designated personnel shall:

1. accept only authorization forms which conform to the standard deduction format (SED-4) from statewide vendor representatives;

2. verify that the statewide vendor name and product codes on any deduction form submitted are in agreement with the current approved list;

3. accept forms for employee deductions which contain no obvious alterations without employee's written acknowledgment of such change;

4. be responsible for verifying that the deduction amount is in agreement with the monthly amount shown on the authorization if applicable;

5. be responsible for maintaining compliance with employee FBP year contract commitment;

6. process refunds for amounts previously deducted from any vendor which receives ISIS HR payments only as directed by OSUP policy. Payroll systems outside of the ISIS HR payroll system shall establish written policy for remittance and refund of deductions taken;

7. be responsible for reporting any infractions of this rule and/or department policy committed by any vendor or vendor representative to OSUP and/or appropriate governing board or boards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), LR 26:1031 (May 2000), LR 32:90 (January 2006).

§129. Reporting

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), LR 26:1031 (May 2000), repealed LR 32:90 (January 2006).

§131. Fees

A. Data, information, reports, or any other services provided to any vendor or any other party by the ISIS HR payroll system or other state payroll system may be subject to payment of a fee for the cost of providing said data, information, reports, and/or services in accordance with the Uniform Fee Schedule established by rule promulgated by the DOA under R.S. 42:458.

B. Fees assessed shall be satisfied in advance of receipt of the requested data.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), LR 26:1031 (May 2000), LR 32:90 (January 2006).

§133. Termination of Payroll Deduction

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), repromulgated LR 26:1031 (May 2000), repealed LR 32:90 (January 2006).

§135. General

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), repromulgated LR 26:1031 (May 2000), repealed LR 32:90 (January 2006).

§137. Appeal Process

A. Any vendor and/or any vendor representative participating in deduction debarred from participating for any reason by a department/agency or OSUP shall have the right to have that action reviewed by filing a written request for review with the department head of the department/agency. This request for review shall be filed within 10 days from the notice of debarment.

B. A written decision shall be rendered on any request for review within 14 days of receipt.

C. Any vendor and/or vendor representative who is not satisfied with this decision has the right to appeal to the Commissioner of Administration. Any such appeal must be in writing and received by the Commissioner of Administration within 10 days of receipt by the vendor. The Commissioner of Administration shall issue a written decision on the matter within 14 days of receipt of the written appeal.

D. The decision of the Commissioner of Administration shall be the final administrative review.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform

Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), LR 26:1031 (May 2000), LR 32:90 (January 2006).

§139. SED-3 (01/06)

DEPARTMENT REQUEST
FOR
PAYROLL DEDUCTION VENDOR

In accordance with the rule governing payroll deductions, Title 4 (Chapter 1, §106.D.2.d),

I, _____, _____, on behalf of the
NAME (Print) TITLE

employees of _____, hereby request
DEPARTMENT

favorable consideration of a payroll deduction application submitted by:

A.

APPLICANT/VENDOR NAME

ADDRESS

CITY/STATE/ZIP

AGENT/REPRESENTATIVE

PHONE (Area/Number/Extension)

To offer:

B.(PRODUCT/SERVICE)

Section 125 Eligible
Yes No

I further certify that the above named company applicant has provided evidence of having met and/or exceeded all requirement of R.S. 42:455; has knowledge of the requirements of the rule governing payroll deductions; and that this department/agency attests that this product/service would be a benefit for employees of this department/agency.

Department _____

Signature _____

Title _____

Date _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform

Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), repromulgated LR 26:1033 (May 2000), amended LR 32:91 (January 2006).

Barbara Goodson
Assistant Commissioner

0601#020

RULE

Department of Labor Office of Workers' Compensation Workers' Compensation Second Injury Board

Approval of Settlements; Requirements;
Computation of Time (LAC 40:III.101)

In accordance with R.S. 49:905, et seq. that the Louisiana Department of Labor, Office of Workers' Compensation, pursuant to authority vested in the director of the Office of Workers' Compensation by R.S. 23:1378(A)(8)(a)(v) and in accordance with applicable provisions of the Administrative Procedure Act, amends Rules governing the procedures before the Workers' Compensation Second Injury Board, LAC 40:III, Chapter 1. The Rule, which is set forth below, amends Chapter 1, Section 101.

Title 40

LABOR AND EMPLOYMENT

Part III. Workers' Compensation Second Injury Board Chapter 1. General Provisions

§101. Approval of Settlements; Requirements; Computation of Time

A.1. Requests for approval of the settlement of a third-party claim for settlement amounts less than \$50,000 shall be submitted by facsimile transmission or hand delivery to the offices of the Second Injury Board.

2. Requests for approval of all other settlements may be submitted by United States Postal Services, facsimile transmission or hand delivery to the offices of the Second Injury Board.

B. Requests for approval of the settlement of a third-party claim shall be submitted on SIB Form C.

C. In computing the period of time allowed for response by the Second Injury Board to a request for settlement authority, the date of submission of the request shall not be included. The last day of the period shall not be included, unless it is a legal holiday, in which event the period shall run until the end of the next day which is not a legal holiday. The board shall have three working days, excluding legal holidays, to respond to the request.

**Second Injury Board
Request For Settlement Authority
Third-Party Claims Less Than \$50,000
R.S. 23:1378(A)(8)(a)(iii)**

All requests must be in **writing**.
All requests must be **faxed** to 225-219-5968 or **hand delivered** to the Second Injury Fund.
All **questions** must be answered and submitted with **required attachments**.

Name of Injured Worker:
Name of Workers' Compensation Insurance Carrier and/or Self-Insured Employer:
SIB Claim No:
Weekly Compensation Rate:

What is the total paid to date by the workers' compensation insurance carrier and/or self-insured employer?

- a. Indemnity _____
- b. Medical _____

What is the third party offer to:

- a. The workers' compensation insurance carrier and or self-insured employer? _____
- b. The injured worker? _____
- c. Others (specify)? _____

Does the workers' compensation insurance carrier and/or self-insured employer anticipate waiving recovery of any portion of the amount paid to the injured worker?	<input type="checkbox"/> Yes* <input type="checkbox"/> No *If yes, what amount or percentage will be waived? _____
--	---

In addition to the above responses, the following must be attached:

- A recent medical report documenting current medical condition.
- A completed settlement evaluation form.

Not required but recommended:

Any additional information you care to submit to support your position.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1378(A)(8)(a)(v).

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, Second Injury Board, LR 1:145 (February 1975), amended LR 3:48 (January 1977), LR 3:497 (December 1977), amended by the Department of Employment and Training, Office of Workers' Compensation, Second Injury Board, LR 17:179 (February 1991), amended by Department of Labor, Office of Workers' Compensation, Second Injury Board, LR 32:92 (January 2006).

John Warner Smith
Secretary

0601#050

RULE

**Department of Insurance
Office of the Commissioner**

**Regulation 81—Military Personnel—Automobile
Liability Insurance Premium Discount and Insurer
Premium Tax Credit Program (LAC 37:XIII.Chapter 95)**

Under the authority of the Louisiana Insurance Code, R.S. 22:1, et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., and specifically R.S. 49:953.(B), the Louisiana Department of Insurance (LDOI), pursuant to R.S. 22:1425, amends Regulation 81 to implement changes to the premium discount program for active military personnel based in Louisiana, and to establish an insurer premium tax credit program for those insurers who properly provide the automobile liability insurance premium discount to active military personnel based in Louisiana, and to establish eligibility criteria, and to publish an approved "Louisiana Application For Military Discount" form as the documentary proof required for a person to verify eligibility for the discount, and to provide for the procedure whereby participating insurers can apply for and obtain a tax credit against the payment of premium taxes levied pursuant to R.S. 22:1061 and 1065, and to provide for other related matters as per the mandates of R.S. 22:1425. This action complies with the statutory law administered by the LDOI. The amendment to Regulation 81 is authorized by Act 408 of the 2005 Regular Legislative Session.

Title 37

INSURANCE

Part XIII. Regulations

**Chapter 95. Regulation 81—Military Personnel
Automobile Liability Insurance Premium
Discount and Insurer Premium Tax
Credit Program**

§9503. Purpose

A. The purpose of this regulation is to implement the provisions of Acts 2004, No. 770 of the Louisiana Legislature, Regular Session, as well as to implement the amendment thereto as set forth in Acts 2005, No. 408 of the Louisiana Legislature, Regular Session. The original law created an insurance premium discount program for active military personnel based in Louisiana. The amendment creates a program whereby an insurer is entitled to a tax credit against the premium taxes imposed under R.S. 22:1061 and 1065 for the amount of the military discount

provided to qualified active military personnel for the liability portion of their personal automobile liability policy. Both laws require the commissioner to adopt a regulation to implement the military discount program and to develop procedures for the insurer to follow to claim a tax credit and for other related matters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1425.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:673 (March 20, 2005), amended LR 32:94 (January 2006).

§9505. Scope and Applicability

A. This regulation applies to all motor vehicle insurers authorized to engage in the business of writing personal automobile liability insurance in this state. It is also applicable to any personal automobile liability insurance policy purchased in this state from an authorized insurer by active military personnel based in Louisiana to cover personal motor vehicles owned and/or insured by such active military personnel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1425.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:673 (March 20, 2005), amended LR 32:94 (January 2006).

§9509. Definitions

A. For the purposes of this regulation the following terms shall have the meaning ascribed herein unless the context clearly indicates otherwise:

Active Military Personnel—

- a. a single or married person who is based in this state and serving on full time active duty status in the military as a member of
 - i. the Army, Navy, Marine Corps or Air Force; or
 - ii. the Reserve or National Guard; or
 - iii. the Coast Guard.

* * *

Automobile Liability Insurance Policy—a policy of insurance acquired in this state, insuring personal motor vehicles of the types described in R.S. 22:636.1.A.(1)(a)-(b), with the exception that for the purposes of this regulation, it shall also include coverage for motorcycles, which provides coverage for bodily injury and property damage liability, medical payments and uninsured motorists coverage as provided in R.S. 22:636.1.A.(2). It includes a renewal policy if, at the time of the renewal, the named insured retains the status of *active military personnel* as defined above. Golf carts, go-carts, off-road vehicles, all-terrain vehicles and other similar motorized vehicles are not motor vehicles for the purposes of R.S. 22:636.1.A.(1)(a)-(b).

* * *

Insured—the individual who qualifies as *active military personnel*. The spouse and/or any dependents who are under the age of 18 or unmarried full time students under the age of 24 who are insured under the same policy as the *active military personnel* are also included in this definition.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1425.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:673 (March 20, 2005), amended LR 32:94 (January 2006).

§9511. Premium Discount; Proof of Eligibility

A. ...

B. The initial obligation to demonstrate eligibility for the premium discount rests with the applicant/AMP. Thus, prior to the insurer applying the premium discount mandated by R.S. 22:1425.A, the applicant/AMP shall provide to the insurer a properly executed Louisiana Application for Military Discount on the current form approved by the Louisiana Department of Insurance (LDOI).

C. An insurer who obtains from an applicant/AMP a properly executed Louisiana Application for Military Discount shall be eligible for a rebuttable presumption that the insurer is entitled to claim a tax credit against the premium taxes levied pursuant to R.S. 22:1061 and 1065.

D. An insurer shall be barred from claiming the benefit of the rebuttable presumption if the insurer knew or should have known that the applicant/AMP provided false or fraudulent information on the Louisiana Application for Military Discount and/or the insurer fails, neglects or refuses to report said false or fraudulent information regarding the applicant/AMP to the LDOI.

E. The initial Louisiana Application for Military Discount shall be properly executed by the applicant/AMP and shall be attested to by the AMP's unit commander or the military officer authorized to administer oaths to the AMP and delivered to the insurer. The insurer is required to maintain the original and all subsequent renewals on file for inspection, verification and audit by the LDOI to ensure that the applicant/AMP is entitled to the premium discount mandated by R.S. 22:1425.A.

F. Active military personnel who is deployed out-of-state or overseas and who is:

1. single, shall be considered as based in this state for purposes of receiving the discount provided by R.S. 22:1425 and §9515 of this regulation; or

2. married, and has a spouse and dependents who remain in this state, shall be considered as based in this state for purposes of receiving the discount provided by R.S. 22:1425 and §9515 of this regulation; or

3. is single, and who has dependents who remain in this state, shall be considered as based in this state for purposes of receiving the discount provided by R.S. 22:1425 and §9515 of this regulation.

G. If single or married AMP are deployed out-of-state or overseas, the insurer is authorized to accept the Louisiana Application for Military Discount if it is properly filled out by any one of the persons who is in a filial relationship to the AMP, to wit: spouse, mother, or father, or any brother, sister, aunt or uncle who has attained the age of majority. The Louisiana Application for Military Discount must still be attested to by the AMP's unit commander or the military officer authorized to administer oaths to AMP.

H. Although it is the obligation of the applicant/AMP to demonstrate eligibility for the premium discount, the insurer has the obligation to act with due diligence with regard to the premium discount program. In furtherance of this due diligence obligation, the insurer may request additional documentation or proof from an applicant/AMP to determine initial or continuing eligibility for the discount if the insurer has a legitimate concern with regard to the authenticity or accuracy of any of the information provided by the applicant/AMP.

I. At each renewal AMP shall be required to re-execute the Louisiana Application for Military Discount in all respects as required by Regulation 81.

J. The Louisiana Application for Military Discount that must be properly executed by the applicant and/or AMP is set forth in §9519, Louisiana Application for Military Discount—Appendix, of this regulation and is incorporated herein as if set forth herein *in extenso*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1425.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:673 (March 20, 2005), amended LR 32:94 (January 2006).

§9513. Requests for Tax Credit; Documentation; Dispute Resolution

A. The tax credit authorized by R.S. 22:1425(A), as amended, will be requested by the eligible insurer on an annual calendar year basis. The tax credit will be calculated based upon direct written premium. An insurer is eligible to receive a tax credit against the premium tax levied pursuant to R.S. 22:1061 and 1065 if it is an authorized insurer and the insurer makes a timely request for the tax credit.

B. Insurers seeking a tax credit shall submit a request for premium tax credit to the LDOI in accordance with the reporting schedule for premium taxes levied pursuant to R.S. 22:1061 and 1065 as set forth in the reporting form(s) designed by the commissioner. Insurers shall submit the information required to be maintained by §9515.B of this regulation. A premium tax filing with the tax credit authorized hereunder that does not include the proof required by this regulation will be considered untimely.

C. If the commissioner approves the premium tax filing as being both timely filed and containing all proof required by this regulation, there shall be a rebuttal presumption in favor of the insurer that the insurer is entitled to the tax credit against the premium taxes levied pursuant to R.S. 22:1061 and 1065.

D. The commissioner may disapprove a tax credit either in whole to the extent that the entire premium tax filing is defective, untimely or improperly documented, or in part to the extent that one portion of the premium tax filing is defective, untimely or improper, but the other portion of the premium tax filing is in compliance with §9513 of this regulation. The commissioner shall use the following criteria with regard to the disapproval, in whole or in part, of a premium tax filing, to wit:

1. the premium tax filing is submitted late, unless the insurer can show good cause for the delay;

2. the premium tax filing is incomplete or required documents are missing;

3. the premium tax filing is excessive because a military discount was given to a person who was not eligible to receive said military discount.

E. As explained above, if the commissioner disapproves, in whole or in part, a tax credit filed by an insurer, he shall give written notice to the insurer, stating the grounds for disapproval. The notice shall be sent to the address shown on the records of the LDOI. An insurer shall have 30 days from the date of the notice to dispute the disapproval by the commissioner. If, within this initial 30 day period the insurer can demonstrate, in writing to the commissioner, good cause

for not being able to provide the required documents to dispute the disapproval, the commissioner may grant one 60 day extension to dispute the disapproval by the commissioner. No other extensions shall be granted. Any documents submitted by the insurer in rebuttal to the commissioner's disapproval notice shall be verified as true and accurate by an officer of the insurer.

F. Within 30 days of submission of the verified rebuttal, the commissioner shall enter an order either approving or disapproving, in whole or in part, the request by the insurer for a tax credit against the premium taxes levied pursuant to R.S. 22:1061 and 1065.

1. If the tax credit is approved, in whole or in part, the commissioner shall grant to the insurer the amount of the tax credit so approved by the commissioner.

2. If the tax credit is disapproved in its entirety, the commissioner shall enter an order denying the entirety of the requested tax credit. The commissioner's order of disapproval shall be given, in writing, to the insurer by certified mail, return receipt requested. The insurer shall have 30 days from the date of receipt of the commissioner's order of disapproval to request an adjudicatory hearing as provided for by Part XXIX of Title 22 of the Louisiana Revised Statutes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1425.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:674 (March 20, 2005), amended LR 32:95 (January 2006).

§9515. Recordkeeping; Annual Report

A. Any insurer issuing an automobile liability insurance policy to an individual who qualifies for the military discount program shall maintain the following records:

1. the items obtained in compliance with §9511 of this regulation.

2. a copy of the Declarations Page for each policy for which a tax credit is sought.

B. The request for the tax credit shall be made on a form(s) designed by the commissioner. The request for the tax credit form shall require, among other things, that the insurer provide the following information to the LDOI with regard to the personal automobile liability insurance coverage issued to an AMP and that this information be provided to the LDOI in either an electronic format as per R.S. 22:2.1 or written format.

1. A detailed listing of all policies for which the tax credit is sought. The listing shall include, at a minimum:

- a. the policy number of each policy;
- b. the effective date of the policy;
- c. the term of the policy;
- d. the gross direct written premium prior to application of the military discount;
- e. the net direct written premium following application of the military discount; and
- f. the dollar value of the military discount applied to the policy.

2. The total number of policies written on active military personnel.

3. The total gross direct written premium prior to application of the military discount.

4. The total net direct written premium following application of the military discount.

5. The total end-of-year tax credit sought relative to the military discount.

C. The insurer shall keep the records required by this section in either electronic or written form and the records shall be maintained by the insurer for a period of five years from the date of issuance of the insurance policy to which the military discount has been applied. Upon request, the insurer shall produce such records for examination or audit by the commissioner or any person acting on behalf of the commissioner. The records required by this section shall be considered confidential and are exempt from the Public Records Act found at R.S. 44:4.

D. The initial tax credit filing made by the insurer shall cover the calendar year ending December 31, 2005 and shall be filed on or before March 1, 2006, and thereafter for each subsequent calendar year ending December 31 and filed on or before March 1 thereafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1425.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:674 (March 20, 2005), amended LR 32:96 (January 2006).

§9517. Overpayments; Collection Proceedings; Fines and Hearings

A. If an insurer is examined or audited by the commissioner and it is determined that the insurer received a tax credit in excess of the amount actually due and owing, then the commissioner shall have authority to order the insurer to refund the overpayment to the commissioner. The commissioner shall promptly notify his staff of his determination and provide his staff with a copy of his order.

B. The commissioner shall have standing to institute legal proceedings to collect the amount of any tax credit overpayment and any such proceedings shall be brought in the Nineteenth Judicial District Court. The commissioner's order shall be prima facie proof of the amount due and owing. If legal proceedings are instituted, the commissioner shall be entitled to an additional 20 percent of the amount of the tax credit overpayment found to be due and owing for the cost of collection.

C. An insurer's failure or refusal to refund a tax credit overpayment shall constitute grounds for the commissioner to suspend the insurer's certificate of authority, or to impose a fine not to exceed 10 percent of the tax credit overpayment or \$2,500, whichever is more, or both. The insurer shall have 30 days from the date of receipt of the notice of the commissioner's proposed action to request an adjudicatory hearing as provided for by Part XXIX of Title 22 of the Louisiana Revised Statutes.

D. No insurer shall be allowed to withdraw from the state or have its certificate of authority canceled if it has outstanding tax credit overpayments.

E. Nothing in this regulation shall be construed as a limitation on any powers or duties otherwise vested in the commissioner by operation of law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1425.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:675 (March 20, 2005), amended LR 32:96 (January 2006).

§9519. Louisiana Application for Military Discount - Appendix

LOUISIANA APPLICATION FOR MILITARY DISCOUNT

NAME OF INSURANCE COMPANY:

POLICY NO. or APPLICATION NO.:

READ THIS DOCUMENT CAREFULLY BEFORE SIGNING. If you have any questions about this "Louisiana Application For Military Discount" form ask your agent for an explanation or contact the Louisiana Department of Insurance at (800) 259-5300 or (225) 342-5900. You must complete all sections of this "Louisiana Application For Military Discount" form. If a section is not applicable enter "N/A."

Full Name of Active Military Personnel: _____ Date: _____

Date of Birth: _____ Home Phone: _____

Home Address: _____

Name of Spouse: _____ Spouse Date of Birth: _____

Name and Date of Birth of Dependents: _____

Year, Make, Model & VIN of Car(s): _____

Branch of Service: _____ Rank: _____

Name of Unit: _____ Unit Commander: _____

Unit Address: _____ Unit Phone: _____

Order No: _____ Date of Order: _____

Active Duty Station: _____ Military Job: _____

The undersigned hereby certifies that he/she is on active duty and permanently based in Louisiana and qualifies as "active military personnel" ("AMP") as defined by R.S. 22:1425 and Regulation 81, and is eligible for the military discount set forth in R.S. 22:1425 for personal automobile liability insurance policy. The AMP further certifies that the information provided in this "Louisiana Application For Military Discount" form is true and correct and that he/she will promptly notify his/her automobile insurer of any change in the above information. The AMP acknowledges that any false, fraudulent or misleading statement may subject him/her to civil and criminal penalties, including those penalties set forth in R.S. 22:1243, and any applicable provisions of Title 14, the Louisiana Criminal Code.

Signature of Active Military Personnel ("AMP")

Signature of Commanding Officer or
Military Officer Authorized to Administer Oaths

Print Name of Active Military Personnel

Print Name and Title of Commanding Officer or
Military Officer Authorized to Administer Oaths

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1425.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:675 (March 20, 2005), amended LR 32:97 (January 2006).

§9521. Effective Date; Implementation

A. This regulation, as amended, shall take effect on August 8, 2005. Insurers shall take steps to timely implement the military discount program so that it is available for all new and renewal business effective July 1, 2005.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1425.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:675 (March 20, 2005), amended LR 32:98 (January 2006).

J. Robert Wooley
Commissioner

0601#090

RULE

**Department of Health and Hospitals
Office of Public Health**

**Tuberculosis Control Program
(LAC 51:II.503)**

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health, pursuant to the authority in R.S. 40:5, and based on the amendment and reenactment of R.S. 40:1156, amends Title 51, Part II, Chapter 5 providing for mandatory tuberculosis testing of certain individuals who are employees, volunteers or patients in certain medical and residential facilities. The Rule changes the title of Chapter 5 from Health Examinations of Employees, Volunteers and Patients at Day Care Centers and Residential Facilities to Health Examinations for Employees, Volunteers and Patients at Certain Medical and Residential Facilities. This title change is consistent with the removal of Day Care Center employees and volunteers from the mandatory tuberculosis testing requirement in June 2002 and the Rule changes as follows. The second Rule change adds to those whose testing for tuberculosis is mandatory the employees and volunteers working in direct patient care positions in the parish health units and out-patient health care facilities of the Department of Health and Hospitals, Office of Public Health.

Title 51

PUBLIC HEALTH—SANITARY CODE

Part II. The Control of Diseases

**Chapter 5. Health Examinations for Employees,
Volunteers and Patients at Certain
Medical and Residential Facilities**

§503. Mandatory Tuberculosis Testing

A. All persons prior to or at the time of employment at any medical or 24-hour residential facility requiring licensing by the Department of Health and Hospitals or at any Department of Health and Hospitals Office of Public Health parish health unit or out-patient health care facility, who are involved in direct patient care or client visits in the

field, or any person prior to or at the time of commencing volunteer work involving direct patient care at any medical or 24-hour residential facility requiring licensing by the Department of Health and Hospitals or at any Department of Health and Hospitals Office of Public Health parish health unit or out-patient health care facility, who are involved in direct patient care or client visits in the field, shall be free of tuberculosis in a communicable state as evidenced by either a:

1. negative purified protein derivative skin test for tuberculosis, five tuberculin units strength, given by the Mantoux method;
2. normal chest x-ray, if the skin test is positive; or
3. statement from a licensed physician certifying that the individual is non-infectious if the x-ray is other than normal. The individual shall not be denied access to work solely on the basis of being infected with tuberculosis, provided the infection is not communicable.

B. Any employee or volunteer at a medical or 24-hour residential facility required to be licensed by the Department of Health and Hospitals or at any Department of Health and Hospitals, Office of Public Health parish health unit or Department of Health and Hospitals, Office of Public Health out-patient health care facility who has a positive purified protein derivative skin test for tuberculosis, five tuberculin units strength, given by the Mantoux method, or a chest x-ray other than normal, in order to remain employed or continue work as a volunteer, shall complete an adequate course of chemotherapy for tuberculosis as prescribed by a Louisiana licensed physician, or shall present a signed statement from a Louisiana licensed physician stating that chemotherapy is not indicated.

C. Any employee or volunteer at a medical or 24-hour residential facility required to be licensed by the Department of Health and Hospitals or at any Department of Health and Hospitals, Office of Public Health parish health unit or Department of Health and Hospitals, Office of Public Health out-patient health care facility who has a negative purified protein derivative skin test for tuberculosis, five tuberculin units strength, given by the Mantoux method, in order to remain employed or continue work as a volunteer, shall be re-tested annually as long as the purified protein derivative skin test for tuberculosis, five tuberculin units strength, given by the Mantoux method, remains negative. Any employee or volunteer converting from a negative to a positive purified protein derivative skin test for tuberculosis, five tuberculin units strength, given by the Mantoux method, shall be referred to a physician and followed as indicated in §503.B.

D. ...

AUTHORITY NOTE: Promulgated in accordance with the provisions of Louisiana Revised Statutes 40:4(A)(2) and Revised Statutes 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1219 (June 2002), amended LR 32:98 (January 2006)

Frederick P. Cerise, M.D., M.P.H.
Secretary

0601#072

RULE

Department of Health and Hospitals Office of the Secretary Bureau of Primary Care and Rural Health

Medicare Rural Hospital Flexibility Program Critical Access Hospitals (LAC 48:I.7601-7613)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Primary Care and Rural Health is amending LAC 48:I.7601-7615 as authorized by the Balanced Budget Act of 1997 (Public Law 105-33) and pursuant to Title XVIII of the Social Security Act and reauthorized by the Medicare Prescription, Improvement and Modernization Act of 2003. This Rule is promulgated in accordance with Medicare, Medicaid, the State Children's Health Insurance Programs (SCHIP) Balanced Budget Refinement Act of 1999 the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Primary Care and Rural Health promulgated a rule implementing the Medicare Rural Hospital Flexibility Program (MRHF) to assist rural communities in improving access to essential health care services through the establishment of limited service hospitals and rural health networks. The program created the Critical Access Hospital (CAH) as a limited service hospital eligible for Medicare certification and reimbursement (*Louisiana Register*, Volume 25, Number 8). The bureau now proposes to amend the August 20, 1999 Rule to revise the definition of "necessary provider" and revise other criteria to limit participation in the MRHF Program to Louisiana's existing small rural hospitals.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this Rule on the family has been considered. This Rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972

The Department of Health and Hospitals, Office of the Secretary, Bureau of Primary Care and Rural Health hereby amends the Medicare Rural Hospital Flexibility Program. To qualify as a critical access hospital, the small rural hospital must complete the following designation, licensing and certification processes.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 76. Medicare Rural Hospital Flexibility Program (MRHF)

Subchapter A. Critical Access Hospitals

§7601. Definitions

A. The following word and terms, when used in this Chapter 76 shall have the following meanings, unless the context clearly indicates otherwise.

BPCRH—Department of Health and Hospital, Office of the Secretary, Bureau of Primary Care and Rural Health.

CAH—Critical Access Hospital.

CMS—Centers for Medicare and Medicaid Services.

EACH/ RPCH—Essential Access Community Hospital/Rural Primary Care Hospital—a limited service rural hospital program.

EMS—Emergency Medical Services.

Health Care Network—an organization consisting of at least one CAH and one acute care hospital with agreements for patient referrals, emergency/non-emergency transportation and other services as feasible.

HPSA—Health Professional Shortage Area.

HSS—Department of Health and Hospitals, Bureau of Health Services Financing, Health Standards Section.

MRHF—Medicare Rural Hospital Flexibility Program.

MSA—Metropolitan Statistical Area.

MUA—Medically Underserved Area designated by the federal Office of Shortage Designations.

Necessary Provider—a facility located in a primary care HPSA or MUA; or located in a parish in which the percentage of Medicare beneficiaries is higher than the percentage of Medicare beneficiaries residing in the state; or a facility located in a parish in which the percentage of the population under 100 percent of the federal poverty level is higher than the percentage of the state population under 100 percent of the federal poverty level or qualifies as a "rural hospital" under the Louisiana Rural Preservation Act.

Not-for Profit—incorporated as a non-profit corporate entity.

Primary Care—basic ambulatory health services that provide preventive, diagnostic and therapeutic care.

Primary Care Physicians—includes general, family and internal medicine, pediatrics and obstetrics/gynecology.

QIO—Quality Improvement Organization

Public Hospital—hospital supported by public funds including city, service district and state hospitals.

Rural—The CAH is located outside any area that is a Metropolitan Statistical Area, as defined by the Office of Management and Budget or qualifies as a rural hospital under the Louisiana Rural Preservation Act.

AUTHORITY NOTE: Promulgated in accordance with the Balanced Budget Act of 1997 (P.L. 105-33) and Title XVIII of the Social Security Act; amended by Medicare, Medicaid, SCHIP Balance Budget Refinement Act of 1999.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Management and Finance, Division of Research and Development, LR 25:1478 (August 1999), amended LR 26:1480 (July 2000), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Primary Care and Rural Health, LR 32:99 (January 2006).

§7603. Criteria for Designation as a CAH

A. A hospital must submit an application to the BPCRH and must meet the following criteria, or affirm that it can meet these criteria at the time of certification, to be designated as a CAH:

1. be a licensed hospital;
2. be currently participating in the Medicare program and meet applicable conditions of participation;
3. be located in a rural area:
 - a. may be a rural census tract in a Metropolitan Statistical Area as determined under the Goldsmith Modification, originally published in the *Federal Register* on February 27, 1992 and updated October 1, 2004; or
 - b. qualifies as a "rural hospital" under the Rural Preservation Act, RS 40:100.143;

4.a. be located more than a 35-mile drive or a 15-mile drive in mountainous terrain or areas with secondary roads, from the nearest hospital or CAH; or

b. be certified as a necessary provider by qualifying as a "rural hospital" under the Louisiana Rural Hospital Preservation Act RS 40:1300.143; and meeting at least one of the following:

i. be located in a primary care health professional shortage area (HPSA) or a medically underserved area (MUA); or

ii. be located in a parish in which the percentage of Medicare beneficiaries is higher than the percentage of Medicare beneficiaries residing in the state; or

iii. be located in a parish in which the percentage of the population under 100 percent of the federal poverty level is higher than the percentage of the state population under 100 percent of the federal poverty level;

c. provide not more than 25 acute care inpatient beds or swing-beds, meeting such standards as the secretary may establish, for providing inpatient care that does not exceed, as determined on an annual, average basis, 96 hours per patient.

AUTHORITY NOTE: Promulgated in accordance with the Balanced Budget Act of 1997 (P.L. 105-33) and Title XVIII of the Social Security Act; amended by Medicare, Medicaid, SCHIP Balance Budget Refinement Act of 1999.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Management and Finance, Division of Research and Development, LR 25:1478 (August 1999), amended LR 26:1480 (July 2000), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Primary Care and Rural Health, LR 32:99 (January 2006)

§7609. Application Submission and Review

A. A hospital that wishes to be designated as a CAH is required to submit an application to the BPCRHR. Application forms may be requested and submitted by interested hospitals at any time following HCFA approval of the state's Rural Health Care Plan and application.

B. On receipt of an application, the BPCRHR will conduct a review to determining the eligibility of the applicant hospital for conversion and consistency with the criteria for designation detailed in §7603.

C. The supporting information to be included with the application is:

1. documentation of ownership, including names of owners and percent of ownership;

2. board resolution to seek CAH certification;

3. documentation of Medicare participation;

4. notification from BPCRHR that location is in a HPSA or MUA;

5. affirmation that 24-hour emergency medical care services and medical control agreements are available including information on staffing arrangements;

6. documentation that facility meets rural hospital staffing requirements with the following exceptions:

a. the facility need not meet hospital standards regarding the number of hours per day or days of the week in which it must be open and fully staffed, except as required to make emergency medical care services available and to have nursing staff present if an inpatient is in the facility;

b. the facility may provide the services of a dietician, pharmacist, laboratory technician, medical technologist, and/or radiological technologist on a part-time, off site basis; and

c. inpatient care may be provided by a physician assistant, nurse practitioner, or clinical nurse specialist, subject to the oversight of a physician who need not be present in the facility but immediately available in accordance with state requirements for scope of practice;

7. copy of a needs assessment, if available;

8. copy of a strategic plan for conversion;

9. copy of financial feasibility assessment.

D. Decision. If an application is complete, and all supporting documentation provided, the BPCRHR will provide written notice to the applicant hospital.

1. If the application and required documentation supports conversion to a MRHF, after the effective date of the published rule, the BPCRHR will provide a written notice of the designation to the applicant hospital and HSS.

2. If the application is incomplete or otherwise insufficient to allow designation, the BPCRHR will provide written notice to the applicant outlining the actions necessary to correct the deficiencies. The hospital may then address the deficiencies and resubmit its application.

E. Once designated, a hospital may apply to the Bureau of Health Services Financing, Health Standards Section (HSS) of the Department of Health and Hospitals for an onsite survey.

AUTHORITY NOTE: Promulgated in accordance with the Balanced Budget Act of 1997 (P.L. 105-33) and Title XVIII of the Social Security Act; amended by Medicare, Medicaid, SCHIP Balance Budget Refinement Act of 1999.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Management and Finance, Division of Research and Development, LR 25:1479 (August 1999), amended LR 26:1480 (July 2000), amended by the Office of the Secretary, Bureau of Primary Care and Rural Health, LR 32:100 (January 2006).

§7611. Technical Assistance

A. The BPCRHR is available to furnish basic technical assistance to hospitals and communities interested in CAH conversion such as providing program information helping with interpretation and completion of the application for designation, and identifying other sources of assistance and information.

AUTHORITY NOTE: Promulgated in accordance with the Balanced Budget Act of 1997 (P.L. 105-33) and Title XVIII of the Social Security Act; amended by Medicare, Medicaid, SCHIP Balance Budget Refinement Act of 1999.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Management and Finance, Division of Research and Development, LR 25:1480 (August 1999), amended LR 26:1480 (July 2000), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Primary Care and Rural Health, LR 32:100 (January 2006).

§7613. Program Monitoring and Evaluation

A. Ongoing monitoring and evaluation of the program will be conducted by the Quality Management Section of the BPCRHR.

1. Strengths and weaknesses of the program and state policy affecting CAHs will be assessed, with the goal of identifying problem areas and developing solutions.

2. Results will be reported to the BPCRH Director who will assign program staff to work with other state agencies and interested parties to determine the necessity of changes and updates to the Plan and state policy.

3. All Plan changes will be forwarded to HCFA for review and approval.

AUTHORITY NOTE: Promulgated in accordance with the Balanced Budget Act of 1997 (P.L. 105-33) and Title XVIII of the Social Security Act; amended by Medicare, Medicaid, SCHIP Balance Budget Refinement Act of 1999.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Management and Finance, Division of Research and Development, LR 25:1480 (August 1999), amended LR 26:1480 (July 2000), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Primary Care and Rural Health LR 32:100 (January 2006).

Frederick P. Cerise, M.D., M.P.H.
Secretary

0601#073

RULE

Department of Public Safety and Corrections Division of Youth Services Office of Youth Development

Crimes Committed on the Grounds of Youth Services Facilities/Office Buildings and/or Properties (LAC 22:1.761)

The Department of Public Safety and Corrections, Youth Services, Office of Youth Development, in accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.), promulgates §761, Crimes Committed on the Grounds of Youth Service Facilities/Office Buildings and/or Property.

The purpose of the promulgation of this Rule is to establish the deputy secretary's policy and procedures regarding the investigation, reporting, and prosecution of crimes committed by youth in a secure care facility, employees and/or visitors on the grounds of secure care facilities, or at any building or on any property under Youth Services (YS) control.

Title 22

CORRECTIONS, CRIMINAL JUSTICE, AND LAW ENFORCEMENT

Part I. Corrections

Chapter 7. Youth Services

Subchapter C. Field Operations

§761. Crimes Committed on the Grounds of Youth Services Facilities/Office Buildings and/or Properties

A. Purpose. To establish policy regarding the investigation, reporting, and prosecution of crimes committed by youth in a secure care facility, employees and/or visitors on the grounds of secure care facilities or at any building or on any property under Youth Services (YS) control.

B. Applicability. All employees of Youth Services. Unit heads are responsible for ensuring that the investigation and reporting requirements described herein are met.

C. Definitions

Unit Head—youth facility directors, probation and parole program director, and the deputy secretary or designee for YS Central Office.

YS Central Office—offices of the deputy secretary, deputy assistant secretaries, Undersecretary of Management and Finance or designee, and their support staff.

D. Policy. It is the deputy secretary's policy that whenever a criminal act is allegedly committed, the matter will be investigated immediately by facility/office personnel (with assistance from other law enforcement agencies where appropriate), and referred to the appropriate district attorney for consideration of prosecution. In some jurisdictions, the district attorney may waive review of certain offenses or classes of offenses. Where the district attorney has waived review, the unit heads are authorized to handle such matters internally.

E. Procedures

1. A quarterly summary of referrals should be submitted to the district attorney.

2. The unit head and the district attorney may agree on specific categories of offenses that will not be reportable for consideration of prosecution except that youth facility directors must report those offenses covered by "Project Zero Tolerance—A Balanced Approach to Reducing Violence."

3. Disciplinary action will be taken against employees involved in criminal activities.

4. Failure to investigate and/or report acts covered by this rule may be cause for disciplinary action.

5. Any unit head who has knowledge of any misappropriation of public funds or assets of YS shall immediately notify the deputy secretary, the legislative auditor, and the district attorney.

6. "Project Zero Tolerance—A Balanced Approach to Reducing Violence" should be referred to for specific instructions concerning investigation reports and evidentiary documents of offenses covered therein.

7. In cases with probable cause to believe that a youth 17 years of age or older assigned to a secure care facility has committed a felony-grade offense, YS will seek to have that youth arrested, charged, and if appropriate, transferred to adult jurisdiction within the Department of Public Safety and Corrections.

F. The sheriff's office may be contacted to effect the arrest or the arrest may be effected by an employee of YS who possesses a law enforcement commission with full arrest powers from either a local law enforcement agency or a special officer's commission issued by the state police pursuant to R.S. 40:1379.1.

G. If adult jail pre-trial confinement is appropriate, after the arrest the youth facility director or designee should contact the local sheriff's office to arrange for the transfer. If the sheriff's office is unable to provide pre-trial housing, the youth facility director or designee should contact the deputy secretary or designee to arrange for the assignment of the arrestee to an adult pre-trial facility.

H. To determine the appropriateness of the adult jail pre-trial confinement, the youth facility director should consider the diagnosis of any youth who is seriously mentally ill or developmentally disabled, or whose medical condition may indicate that such a transfer is not appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1379.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Youth Services, Office of Youth Development, LR 32:101 (January 2006).

Simon G. Gonsoulin
Deputy Secretary

0601#077

RULE

Department of Public Safety and Corrections Division of Youth Services Office of Youth Development

Freon Recovery—Certification of Technicians and Recovery Equipment (LAC 22:I.703)

The Department of Public Safety and Corrections, Youth Services (YS), Office of Youth Development, in accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.), hereby promulgates §703, Freon Recovery—Certification of Technicians and Recovery Equipment.

The purpose of the promulgation of this Rule is to provide for procedures to comply with the refrigerant recycling requirements of the Clean Air Act (CAA).

Title 22

CORRECTIONS, CRIMINAL JUSTICE, AND LAW ENFORCEMENT

Part I. Corrections

Chapter 7. Youth Services

Subchapter A. Administrative

§703. Freon Recovery—Certification of Technicians and Recovery Equipment

A. Purpose. To provide for procedures to comply with the refrigerant recycling requirements of the Clean Air Act (CAA).

B. Applicability: deputy secretary, undersecretary or designee, deputy assistant secretaries, youth facility directors, probation and parole program director and regional managers.

C. Definitions

Regional Managers—the managers of the Division of Youth Services field offices located throughout the state.

Unit Head—youth facility directors, probation and parole director, and the deputy secretary or designee for Youth Services.

YS Central Office—offices of the deputy secretary, deputy assistant secretaries, and undersecretary or designee of the Office of Management and Finance, of the Office of Youth Development and their support staff.

D. Policy. It is the deputy secretary's policy to comply with Section 608 of the CAA, Refrigerant Recycling and Technician Certification.

E. Procedures. Each unit head shall ensure compliance with the following:

1. utilize service practices that maximize recycling of ozone-depleting compounds during the servicing and disposal of air conditioning and refrigeration equipment;

2. either:

a. certify to the Environmental Protection Agency (EPA) that recycling or recovery equipment has been acquired and that persons are adequately trained in the use of appropriate equipment, servicing or disposing of air conditioning or refrigeration equipment (including automobile air conditioners); or

b. utilize outside vendors with approved equipment and practices to provide this service.

AUTHORITY NOTE: Promulgated in accordance with Section 608 of the Clean Air Act, 1990, as amended (CAA), including final regulations published on March 14, 1993 (58 FR 28660), and the prohibition that became effective on July 1, 1992.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Youth Services, Office of Youth Development, LR 32:102 (January 2006).

Simon G. Gonsoulin
Deputy Secretary

0601#079

RULE

Department of Public Safety and Corrections Division of Youth Services Office of Youth Development

Furlough Process and Escorted Absence (LAC 22:I.763)

The Department of Public Safety and Corrections, Youth Services, Office of Youth Development, in accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.), hereby promulgates §763, Furlough Process and Escorted Absence.

The purpose of the promulgation of this Rule is to establish the deputy secretary's policy and procedures regarding the temporary release on furlough of adjudicated youth for the purpose of assisting youth in maintaining family and community relations.

Title 22

CORRECTIONS, CRIMINAL JUSTICE, AND LAW ENFORCEMENT

Part I. Corrections

Chapter 7. Youth Services

Subchapter C. Field Operations

§763. Furlough Process and Escorted Absence

A. Purpose. To establish the deputy secretary's policy regarding temporary release on furlough of adjudicated youth for the purpose of assisting youth in maintaining family and community relations.

B. Applicability: Deputy secretary, assistant secretary, deputy assistant secretaries, facility directors, probation and parole program director, and regional managers.

C. Policy. It is the policy of the deputy secretary to use temporary furloughs within the state as a rehabilitative tool to assist youth assigned to a center for youth in maintaining family and community relations. The Division of Youth Services (DYS) and the facility shall work together to effect the furlough program from recommendation through implementation. The deputy secretary must approve all furloughs except family emergency furloughs.

D. Definitions

Administrative Furlough Review Committee (AFRC)—the multi-disciplinary committee responsible for determining furlough eligibility.

Escorted Absence—a temporary absence authorized by the director of a facility in which youth are escorted off the grounds by facility staff.

Furlough—the authorized temporary release of a qualified youth from the grounds of a center for youth, or community-based secure detention facility, without the supervision of facility staff, for the purposes of aiding in the youth's rehabilitation, maintaining and/or enhancing family and community relations, and preparing the youth to make a satisfactory transition into society after his/her release.

E. Types of Furloughs

1. Standard Furlough—applies to all youth except for those committed to Youth Services under Children's Code Article 897.1, those assigned to a short-term program, or youth eligible for a family emergency furlough.

2. Children's Code Article 897.1 Furlough—applies only to youth committed to Youth Services under La. Children's Code Article 897.1 based upon a violation of R.S. 14:30 First Degree Murder, R.S. 14:30.1 Second Degree Murder, R.S. 14: 42 Aggravated Rape, R.S. 14:44 Aggravated Kidnapping and R.S. 14:64 Armed Robbery.

3. Short-Term Program Furlough—applies only to youth assigned to a short-term program.

4. Family Emergency Furlough—the authorized temporary release of a qualified youth due to a crisis prompted by the death or life-threatening illness or injury of a family member or legal custodian, and such furlough is deemed beneficial for the youth in meeting the needs of youth/family.

F. Furlough Eligibility Criteria, Exclusion Criteria and Procedure

1. Standard Furlough

a. Criteria for eligibility:

- i. youth is on a minimum custody level; or
- ii. youth is on a medium custody level, provided the youth has had no rule infraction within the past 60 calendar days; and
- iii. youth is making progress on identified treatment needs, including taking medication; and
- iv. youth's parent/custodian must have participated in a minimum of three family integration sessions, which may be conducted via telephone.

b. Exclusions from Standard Furlough Eligibility

- i. Youth is on a maximum custody classification level.
- ii. Youth is on suicide watch.
- iii. Youth is under investigation for and/or has pending criminal charges.
- iv. There is documented evidence of previous unsuccessful furlough.

c. Screening and Referral for Standard Furlough

i. Youth must be screened at quarterly staffing, beginning at the second quarter staffing, regional staffing or during the placement review process. If appropriate, a referral to the Administrative Furlough Review Committee (AFRC) for furlough consideration should be made by completing page 1 of the Furlough Referral and Application Form.

d. Standard Furlough Staffing

i. The AFRC must staff the furlough candidate's application using all information appropriate, but at a minimum:

- (a). Progress Reports;
- (b). Dormitory Management Team Review Form;
- (c). Furlough Application Form;
- (d). Reintegration Plan;
- (e). Individual Treatment Plan; and
- (f). medical considerations.

ii. The furlough recommendation is made and pages 2 and 3 of the Furlough Referral and Application Form is completed.

e. Standard Furlough Duration

i. Standard furloughs may be granted in increments of time between 2 hours to 14 consecutive days.

ii. A Standard furlough may be granted for a cumulative period up to 30 days in a calendar year, with no more than 14 consecutive days being granted/taken at any given time. Additional furlough authority greater than 30 days in a calendar year must be approved by the deputy secretary and must be submitted with justification for the need for additional furlough days.

2. Children's Code Article 897.1 Furlough

a. Criteria for eligibility:

- i. youth has served a minimum of 60 percent of his commitment and has maintained a minimum custody level for six months prior to furlough referral or has been in the physical custody of Youth Services for a minimum of three years and has maintained a minimum custody level for twelve months prior to furlough referral; and
- ii. youth has made progress in Youth Services' behavior modification program; and
- iii. youth is making progress on identified treatment needs; and
- iv. youth's parent/custodian must have participated in a minimum of three family integration sessions, which may be conducted via telephone.

b. Exclusions from Children's Code. 897.1 Furlough Eligibility

- i. Youth is on medium or maximum custody level.
- ii. Youth is currently on suicide precautions.
- iii. Youth is under investigation for and/or has pending criminal charges.
- iv. There is documented evidence of a previous unsuccessful furlough.

c. Screening and Referral for Children's Code Article 897.1 Furlough

i. Youth must be screened at quarterly staffing, beginning with the second quarterly staffing, or regional staffing. If appropriate, a referral to the Administrative Furlough Review Committee (AFRC) for furlough consideration should be made by completing page 1 of the Furlough Referral and Application Form.

d. Children's Code Article 897.1 Staffing

i. The AFRC must staff the furlough candidate's application using all appropriate information, but at a minimum:

- (a). Progress Reports;
- (b). Dormitory Management Team Review Form;

- (c). Furlough Application Form;
- (d). Reintegration Plan;
- (e). Individual Treatment Plan; and
- (f). medical needs;

ii. The furlough recommendation is made by completing pages 2 and 3 of the Furlough Referral and Application Form.

e. Children's Code Article 897.1 Furlough Duration/Conditions

i. Children's Code Article 897.1 furloughs may be granted in increments of time between two hours to 14 consecutive days. Initial furloughs should be short, with subsequent furloughs being granted for longer periods of time, unless the circumstances demand otherwise.

ii. A Children's Code Art.897.1 furlough may be granted for a cumulative period up to 30 days in a calendar year, with no more than 14 consecutive days being granted/taken at any given time. Additional furlough authority, greater than 30 days in a calendar year, must be approved by the deputy secretary and must be submitted with justification for the need for additional furlough days.

iii. If a furlough is approved, a youth will be required to wear an electronic monitoring device during the furlough and shall be monitored by the appropriate regional office.

3. Short-Term Program Furlough

a. Criteria for eligibility:

i. youth must demonstrate active participation in a short-term program; and

ii. youth is making progress on identified treatment needs; and

iii. youth is on minimum or medium custody level; and

iv. youth is within four weeks of his/her projected date of program completion; and

v. youth's parent/custodian must have participated in a minimum of three family integration sessions, which may be conducted via telephone.

b. Exclusions from short term program furlough eligibility:

i. youth is on maximum custody classification level;

ii. youth is on suicide precautions;

iii. youth is under investigation for and/or has pending legal charges; or

iv. there is documented evidenced of a previous unsuccessful furlough.

c. Screening and Referral for Short Term Program Furlough

i. Youth must be screened at the 45-day staffing. If appropriate, a referral to the AFRC for furlough consideration should be made by completing page 1 of the Furlough Referral and Application Form.

d. Short Term Program Furlough Staffing

i. The AFRC must staff the furlough candidate's application using all appropriate information, but at a minimum:

- (a) Progress Reports;
- (b) Dormitory Management Team Review Form;
- (c) Furlough Confirmation Form;
- (d) Reintegration Plan;
- (e) Individual Treatment Plan; and

(f) medical needs.

ii. The furlough recommendation is made and pages 2 and 3 of the Furlough Referral and Application Form are completed.

iii. The Short Term Program Furlough must include a Reintegration/Treatment/Transitional Plan of Action containing the objectives and activities of the youth throughout the duration of the furlough. The plan of action will be documented on the Reintegration Activity for Short-Term Program Furlough Form.

e. Duration of Short Term Program Furloughs

i. Short Term Program Furloughs may be granted for a cumulative five calendar days.

ii. Short Term Program Furloughs may not exceed three consecutive days at any given time.

iii. Youth must be within four weeks of his projected date of program completion.

4. Family Emergency Furlough

a. Criteria for Eligibility. A family emergency furlough may be granted under either of the following conditions:

i. youth has confirmation/recommendation from the court that committed him/her to the custody of Youth Services; or

ii. youth is not eligible for any other type of furlough and his/her case manager recommends the family emergency furlough on the basis of individual case data/information. The family emergency furlough will be granted only after receiving approval from the director of the facility.

b. Exclusions from consideration of family emergency furlough:

i. youth is on suicide watch;

ii. youth is under investigation for and/or has pending legal charges;

iii. youth is deemed to be at high risk for runaway or escape and/or engaging in additional criminal conduct;

iv. youth has been adjudicated under Ch. C. Art. 897.1.; or

v. there is documented evidence of previous unsuccessful furlough.

c. Referral for Family Emergency Furlough

i. A staffing must be held which includes the participation of the youth's probation officer, the dorm manager, the case manager, and the facility's deputy director, or in his absence, an assistant director. The staffing may occur via conference call.

ii. If the staffing results in a recommendation for the furlough, the deputy director or assistant director shall transmit the request for approval to the director along with all documentation verifying the emergency.

iii. If the director approves the furlough, the director shall specify the period of time allowed for the furlough.

iv. A written notice of furlough which includes the reason for the furlough, shall be prepared, signed by the director and faxed to the committing court, district attorney, deputy secretary and probation officer.

v. After faxing notice of furlough to the court and district attorney, if no written confirmation is received, a follow-up call must be made to confirm the district attorney and court's response to the proposed family emergency furlough. If there is no objection the furlough may proceed.

vi. If approved, a youth who is on a medium or maximum custody level will be required to wear an electronic monitoring device and shall be monitored by the appropriate regional office.

vii. Prior to a youth receiving a family emergency furlough, the facility director shall approve the family member(s), guardian(s), or other custodian(s) of the youth who will be overseeing the activities of the youth, providing primary care, and assuming responsibility for the youth throughout the duration of the furlough period.

d. Duration of Family Emergency Furlough

i. A family emergency furlough may not exceed three calendar days.

G. Administrative Furlough Review and Approval Process

1. Administrative Furlough Review Committee shall consist of the following:

- a. deputy director or designee named by the director;
- b. dorm manager for the applying youth;
- c. mental health director or designee (LSUHSC) provider (if applicable);
- d. school principal or designee; and
- e. probation officer assigned to the applying youth, or the immediate supervisor (in person, via phone conference, or by prior interview).

2. Screening

a. Youth currently in secure facilities will be reviewed to determine the appropriateness of furloughs. Screening of youth for appropriateness of furlough will occur, at a minimum, during the quarterly staffing. It may also occur during the regional staffing or placement review process.

b. If a youth is determined to be appropriate for furlough after screening, the Administrative Furlough Review Committee will then consider the furlough within ten working days. The AFRC is required to consider multiple aspects of the youth's classification profile and treatment plan in determining furlough eligibility.

3. Referrals

a. Referrals for review of appropriateness of furlough may be made by those participating in the staffing, a probation officer, juvenile court or other interested person. Exclusion criteria must be considered prior to making the referral to the AFRC. Page 1 of the Furlough Referral Application Form shall be utilized to transmit information on youth being referred to the AFRC.

4. AFRC Review Process

a. The AFRC review process will include a thorough review and assessment of the youth's needs, strengths, and weaknesses. At a minimum, the AFRC team will consider the following prior to recommending a furlough:

- i. educational/vocational needs/progress;
- ii. mental health concerns;
- iii. general treatment needs/progress in the areas of substance abuse, anger management, thinking errors;
- iv. behavioral concerns;
- v. level of participation in the behavior management program;
- vi. home environment;

vii. custody level;

viii. community risk assessment;

ix. proposed aftercare/release plans;

x. special needs concerns (i.e., SMI, mental retardation, psychotropic medication needs, self harm);

xi. most recent secure custody screening documents (must have been done within the last year);

xii. escape risk; and

xiii. travel arrangements.

b. The probation officer will conduct a home study for purposes of the furlough within 10 working days. During the course of the home study the probation officer will have the proposed custodian complete or assist in the completion of the Request for Custodian Information Form. The custodian information form will be submitted to the director as part of the Furlough Referral and Application Form.

c. A schedule of the AFRC activities will be issued by the deputy director/designee and disseminated to all department heads and dorm managers. In an effort to better promote parent/guardian input, the case manager will make telephone contact and/or formal written correspondence with the youth's parent/guardian about the scheduled date and approximate time of the AFRC meeting. The parent/guardian shall be invited to participate in the meeting.

d. The AFRC will send a completed furlough application form to the director.

e. With the exception of family emergency furloughs, once approved by the director, the furlough application will be forwarded to the deputy secretary for final approval.

5. Furlough Action by Deputy Secretary

a. Once approved by the facility director, the furlough application must be transmitted to the deputy secretary for review and final approval. All documentation used to support the director's approval of the furlough must be transmitted to the deputy secretary along with the Furlough Referral and Application Form.

b. The furlough application with supporting documentation must be transmitted to the deputy secretary five working days prior to mailing of the notice to the court(s) and district attorney(s) of plans to furlough a youth.

c. The deputy secretary will notify the facility director of the decision by returning page 3 of the Furlough Referral and Application Form. If the furlough is denied, the director or case manager will meet with the youth, notify the parent/guardian and DYS.

6. Notice to Court and District Attorney

a. If the furlough is approved by the deputy secretary, the director of the facility shall provide written notice to the court(s) and district attorney(s) of plans to furlough the youth.

i. Written notice shall include:

(a) reference to R.S. 15:908 regarding the authority designated to Youth Service to authorize a temporary furlough;

(b) whether the furlough requested is for a youth sentenced under Children's Code 897.1;

(c) statement that the furlough will not be authorized over the objection of the court or if the district attorney objects, until the conclusion of a contradictory hearing; and

(d). statement that the furlough program is a continuing rehabilitative process expected to last throughout the youth's commitment.

ii. For all furloughs except emergency family furloughs, written notice shall be furnished to the court at least 14 calendar days prior to the start date of the furlough.

iii. Notice of approved furloughs will also be provided to the appropriate regional office.

H. Conditions of Furlough

1. Custody Receipt

a. As per R.S. 15:908(B), the adult assuming custody of the child for the furlough must sign a custody receipt. In most cases, the person assuming custody will be the parent or guardian. If the parent or guardian is unable to travel to the facility to assume custody of the youth, a responsible family member may accept custody of the youth. This person must be an approved adult family member, age 21 or over, who is either included on the youth's previously approved visitation list or is known to the Office of Community Services worker or the assigned probation officer. A previously approved adult may also accept custody of the youth.

2. Conditions of Furlough

a. Case managers are responsible for reviewing furlough conditions and sanctions with the youth and family member or previously approved adult who will take custody of the youth. The case manager shall provide the youth and custodian with a copy of the conditions and sanctions. Following review of the furlough conditions and sanctions with the youth and custodian, the case manager will have the youth and custodian sign the Conditions of Furlough Form acknowledging that they understand the conditions and sanctions. The youth will sign the furlough contract.

b. All furloughs require that the youth participate in urine drug screening following a furlough.

c. The custodian will also be required to read and sign a Furlough Custodian Agreement.

3. Transportation

a. The responsible adult will physically transport the youth from the facility and return the youth to the facility.

I. Return of Youth to Facility

1. The youth will be returned to the facility. Upon return to the facility the youth will be transported to the infirmary for a wellness check and mandatory urine drug test.

2. The supervising probation officer will submit a report to the facility.

3. A case manager will interview the youth and assess the success of the visit.

4. A completed report will be submitted to the court and a copy sent to the regional office.

J. Sanctions for Violation of Furlough Rules

1. Types of Violations and Available Sanctions

a. Absent without leave (AWOL):

i. disciplinary infraction for escape;

ii. twelve months in Youth Services secure custody prior to any further furlough consideration;

iii. filing of criminal charges for escape and/or related charges.

b. Positive drug screen:

i. disciplinary infraction for intoxication and/or contraband;

ii. six months in Youth Services secure custody prior to any further furlough consideration;

iii. recommendation for referral to substance abuse services;

iv. modification of needs assessment to reflect recent usage of illegal/intoxicating substances (completion of substance abuse assessment).

c. Commission of crime while on furlough:

i. disciplinary infraction for aggravated disobedience;

ii. twelve months prior to any further furlough consideration;

iii. recommendation for referral to an appropriate treatment program.

d. Other violations:

i. therapeutic interventions appropriate to behavior.

2. Documentation of Violations

a. Documentation of rule violations while on furloughs will be reported on an Unusual Occurrence Report (UOR).

b. Reports are to be written by the employee (case manager, program manager, dorm manager, security staff, or probation officer) who discovers the furlough violation.

c. The regional office is to be notified in writing of any youth placed on escape status as a result of a furlough violation. Follow procedures outlined in YS Policy No. C.2.1 "Reporting and Documenting Escapes, Apprehensions, Runaways and AWOL's" regarding escapes.

K. Facility Furlough Program

1. The director of each facility shall implement a furlough program in compliance with the intent of this policy.

2. Provisions for annual review for program effectiveness shall be included.

L. Furlough Forms. The forms referred to above shall be named as follows and contain no less than the following information.

1. Furlough referral and application form:

a. type of furlough requested;

b. youth personal, offense, and custody classification level information;

c. disciplinary infraction review section; and

d. Administrative Furlough Review Committee section.

2. Reintegration activities for short-term furlough:

a. activities and appointments to be completed while on furlough.

3. Request for custodian information:

a. youth personal information;

b. information about makeup of custodial family, address, phone, work address;

c. information about the furlough custodian, his relationship to the youth, his criminal history.

4. Notice to court and district attorney:

a. reference to R.S. 15:908 regarding the authority designated to Youth Service to authorize a temporary furlough;

- b. whether the furlough requested is for a youth sentenced under Children's Code 897.1;
- c. statement that the furlough will not be authorized over the objection of the court or if the district attorney objects, until the conclusion of a contradictory hearing; and
- d. statement that the furlough program is a continuing rehabilitative process expected to last throughout the youth's commitment.

5. Custody receipt:

- a. acknowledgement of conditions and duration of the furlough, signed by the facility director;
- b. acknowledgement of conditions and duration of furlough, and assumption of safety, well-being, and return of the youth, signed by the furlough custodian.

6. Furlough contract:

- a. signed statements from youth that the conditions of the furlough have been explained to him, that he understands them, that he will follow them, that he understands that approval of future furloughs depends on the success of the instant furlough, and a telephone number for him to contact in the event concerns or questions arise.
- b. conditions of furlough, setting forth the general terms and conditions of furlough, the sanctions for violating these conditions, notice that the youth will be required to submit to drug testing upon his return from furlough.

7. Furlough custodian agreement:

- a. acknowledgement of and agreement to certain facts, including that the youth will reside with the furlough custodian and not leave the state, that he can provide housing, meals and transportation to and from the facility, that he understands the conditions of furlough, and other pertinent information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:405.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Youth Services, Office of Youth Development, LR 32:102 (January 2006).

Simon G. Gonsoulin
Deputy Secretary

0601#078

RULE

**Department of Public Safety and Corrections
Division of Youth Services
Office of Youth Development**

Marriage Requests (LAC 22:I.721)

The Department of Public Safety and Corrections, Youth Services, Office of Youth Development, in accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.), hereby promulgates §721.

The purpose of the promulgation of this Rule is to establish the deputy secretary's policy and procedure regarding youth marriage requests.

**Title 22
CORRECTIONS, CRIMINAL JUSTICE, AND LAW
ENFORCEMENT
Part I. Corrections**

Chapter 7. Youth Services

**Subchapter B. Classification, Sentencing, and Service
Functions**

§721. Marriage Requests

A. Purpose. To establish the deputy secretary's policy concerning youth marriage requests.

B. Applicability: deputy secretary, deputy assistant secretaries, and youth facility directors. It is the responsibility of the youth facility directors to convey the contents of this policy to youth who make a request to be married while assigned to a secure care facility. The legal age for obtaining a marriage license is 18 years old.

C. Policy. It is the deputy secretary's policy that youth marriage requests be handled in accordance with the procedures outlined herein.

D. Procedures

1. A youth's request to be married should be submitted to the youth facility director (director) for review.

2. The youth is required to participate in at least one counseling session with the facility chaplain, which is intended to assess the youth's level of responsibility to make a decision of this nature. The director will discuss the marriage proposal with both parties, either personally or through a chaplain, and document that the parties were counseled. In addition, the director will insure that the appropriate staff person provides a courtesy notification to the parent/guardian of the youth's marriage request. Documentation of these actions must be filed in the youth's case record under Clip II.

3. The youth must certify that both parties meet all legal qualifications for marriage. The youth is responsible for gathering this information, but may request assistance from his/her case manager.

4. If the chaplain chooses not to perform the marriage, he/she will inform both parties. In this situation, the chaplain will speak with the individual who is to perform the marriage to insure that they are fully aware of the situation of the youth. Only approved and licensed authorities (e.g., clergy and judges) will be permitted to perform the marriage ceremony.

5. If both parties are assigned to secure care facilities, the marriage will be postponed until one of the parties has been released.

6. The youth making the request must pay for all costs associated with the marriage ceremony.

7. Nothing in this policy is intended to preclude staff from volunteering, with the director's approval, to assist the youth with the marriage ceremony, as long as such assistance does not interfere with other facility activities and staff responsibilities.

8. Absent unusual circumstances related to legitimate safety concerns, the director should approve the marriage request and set an appropriate time and place for the

ceremony. Furloughs will not be granted for a marriage ceremony.

AUTHORITY NOTE: Promulgated in accordance with Turner v. Safley, 482 U.S. 78, 96 L.Ed.2d 64, 107 S.Ct. 2254 (1987); R.S. 9:201 through 204.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Youth Services, Office of Youth Development, LR 32:107 (January 2006).

Simon G. Gonsoulin
Deputy Secretary

0601#080

RULE

**Department of Public Safety and Corrections
Division of Youth Services
Office of Youth Development**

Selective Service Registration (LAC 22:I.701)

The Department of Public Safety and Corrections, Youth Services, Office of Youth Development, in accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.), hereby promulgates §701, Selective Service Registration.

The purpose of the promulgation of this Rule is to establish the deputy secretary's policy and procedures regarding Selective Service Registration for employment or appointment to a classified or unclassified state civil service position.

Title 22

**CORRECTIONS, CRIMINAL JUSTICE, AND LAW
ENFORCEMENT**

Part I. Corrections

Chapter 7. Youth Services

Subchapter A. Administration

§701. Selective Service Registration

A. Purpose. To establish the deputy secretary's policy regarding Selective Service Registration for employment or appointment to a classified or unclassified state civil service position.

B. Applicability: undersecretary, deputy assistant secretaries, probation and parole program director, youth facility directors, and all human resource personnel.

C. Policy. It is the policy of the deputy secretary that any person who is required to register for the federal draft under Section 3 of the Military Selective Service Act (50 U.S.C. App. §453) must register for such draft prior to employment or appointment to a classified or unclassified position with Youth Services (YS).

D. Definitions

Unit Head—youth facility directors, probation and parole program director, and the deputy secretary or designee for YS Central Office.

Y.S. Central Office—offices of the deputy secretary, undersecretary of the office of management and finance, assistant secretary of the office of youth development, and their support staff.

E. Procedures

1. Each unit head is responsible for verifying that all male applicants, age 18 through 25, who are required to register with Selective Service provide proof of such registration in order to be eligible for classified or unclassified state civil service employment.

2. The applicant's selective service card will be copied and the copy attached to the applicant's application.

3. If the applicant does not have his selective service card available, he must complete and sign the Verification of Selective Service Registration form stating that he has registered with Selective Service, will present his Selective Service card as soon as possible or be terminated from employment.

4. A veteran of the armed forces of the United States may submit a copy of his discharge papers or his discharge certificate as verification of service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:33 and the Military Selective Service Act, 50 U.S.C. App. §453.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Youth Services, Office of Youth Development, LR 32:108 (January 2006).

Simon G. Gonsoulin
Deputy Secretary

0601#081

RULE

**Department of Public Safety and Corrections
Gaming Control Board**

Video Draw Poker
(LAC 42:XI.2403, 2411, and 2413)

The Gaming Control Board hereby amends LAC 42:XI.2403, 2411 and 2413 in accordance with R.S. 27:15 and 24, and the Administrative Procedure Act, R.S. 49:950 et seq.

Title 42

LOUISIANA GAMING

Part XI. Video Poker

Chapter 24. Video Draw Poker

§2403. Definitions

A. ...

RAM Clear Chip—an erasable programmable read only memory or other media memory storage device as approved by the division which contains a program specifically designed to clear volatile and nonvolatile memory sections of a logic board for a video gaming device.

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:4862.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:196 (February 1992), amended LR 21:582 (June 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 30:266 (February 2004), repromulgated LR 30:439 (March 2004), amended LR 32:108 (January 2006).

§2411. Regulatory, Communication, and Reporting Responsibilities

A. - A.12. ...

13. All licensed manufacturers and distributors shall develop and provide to all licensed device owners and licensed service entities, a program to train and certify technicians. In addition, all licensed manufacturers and distributors shall award certification to authorized service personnel, and maintain all training records and certificate awards, which shall be provided to the division upon request.

A.14. - H.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:4862.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:196 (February 1992), amended LR 21:582 (June 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 30:269 (February 2004), repromulgated LR 30:444 (March 2004), amended LR 32:109 (January 2006).

§2413. Devices

A. - A.1.g.x. ...

h. main logic board and printed circuit board which shall contain a game EPROM or other secure media memory storage device as approved by the division, and which shall be separate in a locked area of the device. All logic boards shall have a nonremovable number affixed or inscribed;

A.1.i. - K.2.b. ...

L. Device Parts

1. Licensed distributors and device owners shall purchase parts for video draw poker devices according to the following provisions.

a. Logic boards, EPROM's, media memory storage devices, or any other proprietary parts of a video draw poker device shall be purchased from a licensed video draw poker manufacturer or distributor.

b. Video draw poker device monitors and bill/coin acceptors may be purchased directly from the original equipment manufacturer, if available. After market device monitors and bill/coin acceptors may be purchased from sources other than a licensed manufacturer or distributor and used only if the part has been tested and approved for use in a video draw poker device by a division approved testing facility.

c. Any other replacement parts of a video draw poker device may be purchased from sources other than a licensed manufacturer or distributor if:

i. the parts are of equal or better quality than the original device parts; and

ii. the parts have no effect on the security, integrity, or outcome of the game.

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:4862.1 et seq. and R.S. 27:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:197 (February 1992), amended LR 21:582 (June 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 23:1322 (October 1997), LR 25:85 (January 1999), LR

30:269 (February 2004), repromulgated LR 30:446 (March 2004), amended LR 32:109 (January 2006).

H. Charles Gaudin
Chairman

0601#015

RULE

**Department of Public Safety and Corrections
Office of State Fire Marshal**

**Emergency Generators for Health Care Facilities
(LAC 55:V.1301)**

In accordance with the provisions of R.S.40:1563 relative to the authority of the Office of State Fire Marshal to promulgate and enforce rules, the Office of State Fire Marshal hereby amends the following Rule regarding emergency generators for health care facilities.

Title 55

PUBLIC SAFETY

Part V. Fire Protection

Chapter 13. Health Care Facilities; Hospitals

§1301. Emergency Generators for Health Care Facilities

A. In addition to the requirements of the *Life Safety Code* as set forth in previous regulations, all hospitals, skilled nursing facilities or any other facility utilizing life support systems on a 24-hour day basis shall comply with the following.

1. Emergency power must be provided in conformity with NFPA Code 99 for a minimum 48 hour duration.

2. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1651(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 8:15 (January 1982), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 15:95 (February 1989), LR 23:1697 (December 1997), LR 32:109 (January 2006).

Stephen J. Hymel
Undersecretary

0601#018

RULE

**Department of Public Safety and Corrections
Office of State Police
Applied Technology Unit**

**Analysis of Breath—Operator Certification
(LAC 55:1.509)**

In accordance with the provisions of R.S.32:663 relative to the authority of the Office of State Police to promulgate and enforce rules, the Office of State Police hereby amends the following Rule regarding the certification of operators of the Intoxilyzer 5000.

**Title 55
PUBLIC SAFETY**

Part I. State Police

**Chapter 5. Breath and Blood Alcohol Analysis
Methods and Techniques**

Subchapter A. Analysis of Breath

§509. Permits

A. Upon determining the qualification of individuals to perform such analysis and duties, and after submitting an application for certification, the Louisiana Department of Public Safety and Corrections shall issue permits which shall be effective for the following periods with respect to classification.

1. Operator's Certification

a. Operators shall be certified for a period of two years following successful completion of the 16-hour operator's training course. These permits may be renewed after a refresher course given by the Applied Technology Unit or any other agency approved by the Applied Technology Unit.

b. In addition to being certified on any instrument currently approved by the Applied Technology Unit, an operator may also attend a specified course for certification on any new instrument that may be approved by the Applied Technology Unit. These permits shall also be in effect for a period of two years.

2. Breath Alcohol Testing Field Supervisors. Breath alcohol testing field supervisors shall be certified for a period of two years.

3. Instructors. Instructors shall be certified for a period of five years. However, once he is no longer involved in a chemical testing program, his certification shall terminate and then only be recertified after he has once again become involved in a chemical testing program and demonstrated his knowledge of instructions to the applied technology director.

4. Maintenance. Once an applied technology director, breath analysis supervisor, breath analysis instructor specialist, or applied technology specialist is initially certified, his permit shall remain effective for the duration of his employment.

B. Those permits with expiration dates between September 02, 2005 and December 31, 2005 are extended and shall be valid for an additional 180 days from the current listed date of expiration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 4:392 (October 1978), amended LR 6:663 (November 1980), amended by the Department of Public Safety and Corrections, Office of State Police, LR 11:257 (March 1985), LR 14:363 (June 1988), repromulgated LR 14:443 (July 1988), amended LR 17:674 (July 1991), repromulgated LR 17:797 (August 1991), amended by LR 27:1931 (November 2001), amended by the Department of Public Safety and Corrections, Office of State Police, Applied Technology Unit, LR 32:110 (January 2006).

Stephen Hymel
Undersecretary

0601#003

RULE

**Department of Public Safety and Corrections
Office of State Police
Applied Technology Unit**

**Analysis of Breath—Maintenance Inspection for
Intoxilyzer 5000 (LAC 55:I.515)**

In accordance with the provisions of R.S.32:663 relative to the authority of the Office of State Police to promulgate and enforce rules, the Office of State Police hereby amends the following Rule regarding the maintenance inspection for the Intoxilyzer 5000.

**Title 55
PUBLIC SAFETY
Part I. State Police**

**Chapter 5. Breath and Blood Alcohol Analysis
Methods and Techniques**

Subchapter A. Analysis of Breath

§515. Maintenance Inspection for the Intoxilyzer 5000

A. Maintenance inspection shall be performed on a routine basis at least once every four months by the applied technology director, breath analysis supervisor, breath analysis instructor specialist, or applied technology specialist. Items to be inspected shall include, but not be limited to the following:

1. clean instrument;
2. running of a known alcohol value thereby checking the instrument and calibration. Results shall be within plus or minus 0.010 grams percent of the known alcohol value;
3. insure that the instrument is locked;
4. check printer to see if it is printing out properly;
5. check breath tube inlet hose;
6. in event repair work is needed, it shall be recorded in detail.

B. Those Intoxilyzer 5000 machines whose current four month certification period ends between September 2, 2005 and December 31, 2005 shall have an extended certification period and shall not be due for recertification maintenance inspection until an additional 180 days after the current recertification anniversary date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 4:391 (October 1978), LR 11:259 (March 1985), LR 14:364 (June 1988), repromulgated LR 14:444 (July 1988), amended LR 17:675 (July 1991), repromulgated LR 17:798 (August 1991), amended by the Department of Public Safety and Corrections, Office of State Police, Applied Technology Unit, LR 32:110 (January 2006).

Stephen Hymel
Undersecretary

0601#004

RULE

**Department of Revenue
Policy Services Division**

**Definition of Retail Sale or Sale at Retail
Fire Fighting Equipment Exclusion
(LAC 61:I.4301)**

Under the authority of R.S. 47:301 and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division amends LAC 61:I.4301 regarding the exclusion provided under R.S. 47:301(10)(o) for equipment purchased by bona fide volunteer fire departments.

Title 61

REVENUE AND TAXATION

**Part I. Taxes Collected and Administered by the
Secretary of Revenue**

Chapter 43. Sales and Use Tax

§4301. Definitions

A. - C. *Retail Sale or Sale at Retail.* ...

f. For state and local sales or use tax purposes, R.S. 47:301(10)(o) excludes the sale or purchase of equipment used in fire fighting by bona fide volunteer fire departments from the definition of *retail sale or sale at retail*. This applies to all equipment and special apparel necessary for fighting fires including communications systems, rubber suits, boots, helmets, axes, ladders, buckets, and the furnishings of a firehouse necessary for its operation such as sleeping and cooking facilities. Items purchased solely for the entertainment or recreation of volunteer firemen and meals or services furnished to a firehouse do not qualify for exclusion.

* * *

AUTHORITY NOTE: Promulgated in Accordance with R.S. 47:301, R.S. 47:337.2, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Department of Revenue and Taxation, Sales Tax Division, LR 21:957 (September 1995), LR 22:855 (September 1996), amended by the Department of Revenue, Policy Services Division, LR 27:1703 (October 2001), LR 28:348 (February 2002), LR 28:1488 (June 2002), LR 28:2554, 2556 (December 2002), LR 29:186 (February 2003), LR 30:1306 (June 2004), LR 30:2870 (December 2004), LR 32: 111 (January 2006).

Raymond E. Tangney
Senior Policy Consultant

0601#023

RULE

**Department of Revenue
Policy Services Division**

Demand for Payment of Taxes (LAC 61:I.4351)

Under the authority of R.S. 47:306, R.S. 47:1518, and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division amends

LAC 61:I.4351 relative to the duty of the secretary to demand payment of the tax when a taxpayer fails to remit the tax with a return.

Title 61

REVENUE AND TAXATION

**Part I. Taxes Collected and Administered by the
Secretary of Revenue**

Chapter 43. Sales and Use Tax

**§4351. Returns and Payment of Tax, Penalty for
Absorption of Tax**

A. - A.2. ...

3. The tax computed to be due by the dealer is payable at the time the return is due, and failure to do so will cause the secretary to issue a 30-day demand assessment as provided in R.S. 47:1568(B). Failure to file the returns on or before the due date, will subject the dealer to delinquency charges, loss of vendor's compensation and other charges as provided by law. See R.S. 47:1519 for information on electronic funds transfers (EFT).

A.4. - C.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:306, R.S. 47:337.2, R.S. 47:337.18, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Department of Revenue and Taxation, Sales Tax Division, LR 22:852 (September 1996), amended by the Department of Revenue, Sales Tax Division, LR 23:1530 (November 1997), amended by the Department of Revenue, Policy Services Division, LR 30:2868 (December 2004), LR 32:111 (January 2006).

Raymond E. Tangney
Senior Policy Consultant

0601#022

RULE

**Department of Revenue
Policy Services Division**

**Fire Fighting Equipment Purchased by
Volunteer Fire Departments (LAC 61:I.4412)**

Under the authority of R.S. 47:301 and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division repeals LAC 61:I.4412, which explained the exemption provided under R.S. 47:305.12 for fire fighting equipment purchased by bona fide organized public volunteer fire departments.

Title 61

REVENUE AND TAXATION

**Part I. Taxes Collected and Administered by the
Secretary of Revenue**

Chapter 44. Sales and Use Tax Exemptions

**§4412. Fire Fighting Equipment Purchased by Bona
Fide Organized Public Volunteer Fire
Departments**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.12.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February

1987), repealed by the Department of Revenue, Policy Services Division, LR 32:111 (January 2006).

Raymond E. Tangney
Senior Policy Consultant

0601#021

RULE

**Department of Social Services
Office of Community Services**

**Legal Fees in Child Protection Cases
(LAC 67:V.Chapter 57)**

In accordance with the Administrative Procedure Act, R.S. 49:953(B), the Department of Social Services, Office of Community Services, has adopted LAC 67:V, Subpart 7, Chapter 57, Billing Policies and Fee Review Procedures relative to the R.S. 46:460.21 attorney compensation system effective beginning July 1, 2005.

The legislatively convened Task Force on Legal Representation in Child Protection Cases established by House Concurrent Resolution No. 44 of the 2003 Regular Legislative Session, and, continued by House Concurrent Resolution No. 59 of the 2004 Regular Legislative Session, recommended that the Department of Social Services, Office of Community Services implement new billing policies and fee review procedures to be applied to requests for payment made by attorneys providing representation in child protection cases pursuant to R.S. 46:460.21 to be effective July 1, 2005. This recommendation was made to promote accountability through billing policies and other procedures that support attorneys' effective and efficient practice in child protection cases and to facilitate expenditures being more closely reflected in the budget year in which services are provided.

Title 67

SOCIAL SERVICES

Part V. Community Services

Subpart 7. Payment of Legal Fees in Child Protection Cases

Chapter 57. Billing Policies and Fee Review Procedures

§5701. Purpose

A. This Chapter provides billing policies and fee review procedures applicable to requests for payment of legal fees and expenses of attorneys representing children or indigent parents in Child in Need of Care (CINC) and judicial certification for adoption proceedings pursuant to R.S. 46:460.21. These policies and procedures shall be applicable to all requests for payment in proceedings occurring on or after July 1, 2005.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:460.21.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 32:112 (January 2006).

§5703. Billing policies

A. All prerequisites for payment specified in R.S. 46:460.21 shall be met. Attorneys shall comply with all minimum qualification standards specified by Louisiana

Supreme Court General Administrative Rule Part J. Special Rules for Cases Involving the Protection of Children, Rule XXXIII, in order to be eligible for compensation.

B. Rates of payment shall be in accordance with Louisiana Supreme Court General Administrative Rule Part G, Section 9.

C. Upon completion of a discrete stage in CINC proceedings and final judgment in judicial certification for adoption proceedings, attorneys must submit requests for payment the earlier of 90 days of completion or final judgment or 30 days from the end of the state fiscal year (state fiscal year runs July 1-June 30). Discrete stages in proceedings include CINC proceedings through disposition, six-month reviews, and for attorneys representing children, one-year reviews post termination or surrender of parental rights when the child(ren) has not yet been permanently placed. Discrete stages may also include continued custody hearings when the attorney is appointed for that hearing only, CINC proceedings where a petition is not filed or is withdrawn prior to adjudication, CINC proceedings leading up to an Informal Adjustment Agreement, adjudication where the petition is denied, and CINC proceedings prior to disposition where an attorney appointed to act as counsel is permitted by the court to withdraw upon a finding of extenuating circumstances.

D. The detailed itemization of services must conform to the following invoicing standards:

1. Time and expenses billed shall be reasonable and necessary and based on contemporaneous record keeping. Minimum billable time increments shall be no greater than one-tenth of an hour. Each service activity shall be listed individually with its corresponding time increment. Paragraph or block billing whereby multiple discrete activities are billed within a single time increment will not be accepted for payment. Billing for bill preparation will not be accepted for payment. Travel time to and from the court that relates to mileage of less than 20 miles per trip will not be accepted for payment. The department shall make a sample invoice available to any requesting attorney.

2. Each service entry shall include a brief, but specific description of the service rendered, the date, the persons involved (e.g. client, other parties and their attorneys, Office of Community Services worker, foster parents, CASA volunteer, judge, etc.) and the purpose of the service or event.

3. For CINC cases, service entries shall be organized in accordance with discrete stages of the proceedings.

4. Expenses billed must relate to a specific legal service performed and include the date and amount of the expense. A receipt or other appropriate documentation of the expense must be attached. Mileage in excess of 20 miles per trip shall be reimbursable in accordance with state travel regulations established by the state Division of Administration. Beginning and ending odometer readings or alternatively Mapquest documentation of mileage must be included in the itemization.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:460.21.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 32:112 (January 2006).

§5705. Fee Review Procedures

A. In accordance with R.S. 46:460.21:

1. an attorney requesting fees certifies:
 - a. he complies with all minimum qualifications as specified in the Louisiana Supreme Court General Administrative Rule Part J. Special Rules for Cases Involving the Protection of Children Rule XXXIII, for providing representation in child protection cases required by the state of Louisiana;
 - b. the statements contained in the fee request documents are true and correct;
 - c. the services and expenses billed are reasonable and necessary and consistent with effective and efficient practice in child protection cases;
 - d. for representation of counsel on behalf of a parent, the parent is indigent in accordance with law;
 - e. the attorney has received no compensation for the services or expenses described nor will he be receiving or eligible to receive such compensation from any other source;
2. the judge exercising juvenile jurisdiction determines based upon the attorney's certification, information contained within the form and supporting documentation, and his or her knowledge of the proceedings that the number of hours billed and expenses charged appear reasonable and necessary;
3. the department reviews and pays fee requests meeting statutory prerequisites, including submission of necessary forms and documentation.

B. When questions or concerns regarding requests for payment are noted, the judge and/or the department have the authority to request additional information and to seek to resolve any discrepancies with an attorney before concurring in or authorizing fees for payment.

C. Questions or concerns relative to the accuracy, validity, or compliance of an attorney's requests with R.S. 46:460.21 and the standards promulgated herein, applicable Louisiana Supreme Court General Administrative Rules, and professional practice may be referred by the judge or department to the fee review panel constituted herein. The purpose of the panel shall be to provide independence, neutrality, clarity, and administrative efficiency in the resolution of questions or concerns and to promote programmatic and fiscal accountability in the administration of the system.

D. The fee review panel shall be composed of up to eleven experienced attorneys in child welfare proceedings who commit to impartial review of referred questions or concerns in accordance with the applicable standards and overall professional practice. Panel members shall serve without compensation. For any given referral, at least three attorneys from the panel who do not practice in the court from which the referral emanates and who have no conflict of interest relative to the case or attorney that would impair their impartiality shall review and make recommendations relative to the referral. Panel members shall elect a chair and vice-chair to be responsible for receiving referrals and facilitating timely review and response. Panel members shall agree upon the method of assigning cases for review. The department shall support the fee review panel by maintaining a log of referrals and recommendations.

E. Attorneys shall be nominated to serve on the panel by the Louisiana Council of Juvenile and Family Court Judges, the Louisiana Supreme Court, the Louisiana State Bar Association, the Louisiana District Attorneys Association, the Louisiana Indigent Defender Assistance Board, the Department of Social Services, the Mental Health Advocacy Service, and each of the four law schools of the state.

F. Members of the fee panel shall review whether a referred request for payment conforms to the applicable standards and is otherwise accurate and proper in accordance with professional practice. The review may include review of other requests for payment submitted by other attorneys in the same, or similar cases, a review of court files, review of agency records, and interviews of relevant parties, including the attorney submitting the request. When the reasonableness of hours is called into question, the panel shall refer to the Resource Guidelines for Improving Court Practice in Child Abuse and Neglect Cases published by the National Council of Juvenile and Family Court Judges for guidance.

G. Panel members shall agree to maintain the confidentiality of their review and deliberations. Panel members shall be bound by the same standards of confidentiality relative to individual case record information as the court and agency.

H. Upon determining that a request for payment is not in conformity with the applicable standards or is otherwise not accurate or proper in accordance with professional practice, the review panel shall advise the attorney submitting the request of the same in writing and specify the reasons for the determination. The attorney may provide a written response within 10 days of receipt of the determination. After reviewing the attorney's response, the fee panel shall make a recommendation to the appropriate court and the Department regarding the referral and any adjustments to the fee requests it deems appropriate. There shall be no right of review or appeal to the recommendation by the panel members. A recommendation by the fee panel that a request for fees be reduced does not constitute a finding of wrongdoing.

I. The fee panel is authorized to recommend to the Supreme Court an attorney's suspension from appointment to child protection cases for a specified period of time and/or removal from the list of attorneys deemed eligible for appointment in such cases. The fee panel may also make referrals to the Attorney Disciplinary Board as appropriate.

J. Summary information regarding the operation of the fee panel, including referrals to and recommendations of the fee panel, shall be included in the annual report to the legislature pursuant to R.S. 46:460.21.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:460.21.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 32:113 (January 2006).

Ann S. Williamson
Secretary

0601#092

RULE

**Department of Social Services
Office of Management and Finance**

Substance Abuse Testing of Employees (LAC 67:I.101-119)

The Department of Social Services, Office of the Secretary, has amended Title 67, Part I of the Louisiana Administrative Code, Subpart 1 General Administration.

Title 67

SOCIAL SERVICES

Part I. Office of the Secretary

Subpart 1. General Administration

Chapter 1. Substance Abuse Testing

§101. Introduction and Purpose

A. ...

B. The state of Louisiana has a long-standing commitment to working toward an alcohol-free, drug-free workplace. In order to curb the use of illegal drugs by employees of the state of Louisiana, the Louisiana Legislature enacted laws which provide for the creation and implementation of drug testing programs for state employees. Further, the Governor of the State of Louisiana issued Executive Orders Number KBB 2005-08 and KBB 2005-11 providing for the promulgation by executive agencies of written policies mandating drug testing of employees, appointees, prospective employees and prospective appointees, pursuant to R.S. 49:1001 et seq.

C. The Department of Social Services fully supports these efforts and is committed to an alcohol-free, drug-free workplace.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 25:1145 (June 1999), amended by the Department of Social Services, Office of Management and Finance, LR 32:114 (January 2006).

§105. Definitions

* * *

Safety-Sensitive or Security-Sensitive—a position determined by the appointing authority to contain duties of such nature that the compelling state interest to keep the incumbent drug-free outweighs the employee's privacy interests. Executive Orders Number KBB 2005-08 and KBB 2005-11 set forth the following non-exclusive list of examples of safety-sensitive and/or security-sensitive positions in state government:

1. - 8. ...

Under the Influence—for the purposes of this policy, alcohol, a drug, chemical substance, or the combination of alcohol, a drug, chemical substance that affects an employee in any detectable manner. The symptoms or influence are not confined to that consistent with misbehavior, nor to obvious impairment of physical or mental ability, such as slurred speech or difficulty in maintaining balance. A determination of influence can be established by a professional opinion or a scientifically valid test.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 25:1145 (June 1999),

amended by the Department of Social Services, Office of Management and Finance, LR 32:114 (January 2006).

§107. DSS Drug-free Workplace Policy

A. It shall be the policy of DSS to maintain a drug-free workplace and a workforce free of substance abuse (see DSS Policy 4-08). Employees are prohibited from reporting for work, performing work, or otherwise being on any duty status for DSS with the presence in their bodies of alcohol, illegal drugs, controlled substances, or designer (synthetic) drugs at or above the initial testing levels and confirmatory testing levels as established in the contract between the State of Louisiana and the official provider of drug testing services. Employees are further prohibited from illegal use, possession, dispensation, distribution, manufacture, or sale of controlled substances, designer (synthetic) drugs, and illegal drugs at the work site and while on official state business, on duty or on call for duty.

B. To assure maintenance of a drug-free workforce, it shall be the policy of DSS to implement a program of drug testing in accordance with Executive Orders Number KBB 2005-08 and KBB 2005-11, R.S. 49:1001 et seq., and all other applicable federal and state laws, as set forth below.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 25:1146 (June 1999), amended by the Department of Social Services, Office of Management and Finance, LR 32:114 (January 2006).

§109. Conditions Requiring Drug Tests

A. DSS shall require alcohol/drug testing under the following conditions.

1. Reasonable Suspicion: Any employee shall be required to submit to an alcohol/drug test if there is a reasonable suspicion (as defined in this policy) that the employee is using illegal drugs or is under the influence of alcohol while on duty. At least two supervisors/managers must concur there is reasonable suspicion before an employee is required to submit to an alcohol/drug test. Supervisors shall decide who will drive the employee to the testing site.

2. Post-Accident: Each employee involved in an accident that occurs during the course and scope of employment shall be required to submit to an alcohol/drug test if the accident:

- a. involves circumstances leading to a reasonable suspicion of the employee's alcohol/drug use;
- b. results in serious injury or a fatality; or
- c. ...

3. Rehabilitation Monitoring: Any employee who is participating in a substance abuse after-treatment program or who has a rehabilitation agreement with the agency shall be required to submit to periodic drug testing.

4. Pre-Employment: A prospective employee who is given a conditional offer of employment shall sign and be given a copy of the DSS Conditional Offer of Employment Agreement form. Each prospective employee shall be required to submit to drug screening at the time and place designated by the appointing authority or designee following a conditional job offer contingent upon a negative drug-testing result. A prospective employee who tests positive for the presence of drugs in the initial screening or who fails to cooperate in the testing shall be eliminated from

consideration for employment. Employees transferring to DSS from other state agencies without a break in service are exempt from pre-employment testing.

5. ...

6. **Safety-Sensitive and Security-Sensitive Positions—Random Resting.** Every employee in a safety-sensitive or security-sensitive position shall be required to submit to alcohol/drug testing as required by the appointing authority, who shall periodically call for a sample of such employees, selected at random by a computer-generated random selection process, and require them to report for testing. All such testing shall, if practicable, occur during the selected employee's work schedule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 25:1146 (June 1999), amended by the Department of Social Services, Office of Management and Finance, LR 32:114 (January 2006).

§111. Procedure

A. Alcohol/drug testing pursuant to this policy shall be conducted for the presence of any illegal drugs including, but not limited to, cannabinoids (marijuana metabolites), cocaine metabolites, opiate metabolites, phencyclidine, and amphetamines in accordance with the provisions of R.S. 49:1001 et seq. DSS reserves the right to test employees for the presence of any alcohol, illegal drugs or controlled substance when there is a reasonable suspicion to do so.

B. The human resources director of each office shall be involved in any determination that one of the above-named conditions requiring alcohol/drug-testing exists. Upon such determination, the appointing authority or designee for each office shall notify the supervisor of the employee to be tested, who shall immediately notify the employee where and when to report for the testing.

C. - C.4. ...

5. The laboratory shall use a concentration cut-off of 0.08 or more for the initial positive finding in testing for alcohol.

6. All positives reported by the laboratory must be confirmed by gas/chromatography/mass spectrometry.

7. All confirmed positive results of alcohol/drug testing shall be reported by the laboratory to a qualified medical review officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 25:1146 (June 1999), amended by the Department of Social Services, Office of Management and Finance, LR 32:115 (January 2006).

§113. Confidentiality

A. All information, interviews, reports, statements, memoranda, and/or test results received by DSS through its alcohol/drug testing program are confidential communications, pursuant to R.S. 49:1012, and may not be used or received in evidence, obtained in discovery, or disclosed in any public or private proceedings, except in an administrative or disciplinary proceeding or hearing, or civil litigation where drug use by the tested individual is relevant. These records will be kept in a locked confidential file just as any other medical records are retained.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 25:1147 (June 1999), amended by the Department of Social Services, Office of Management and Finance, LR 32:115 (January 2006).

§115. Responsibilities

A. The Secretary of DSS is responsible for the overall compliance with this policy and shall submit to the Office of the Governor, through the Commissioner of Administration, a report on this policy and drug testing program; describing the process, the number of employees affected, the categories of testing being conducted, the associated costs of testing, and the effectiveness of the program by December 1 of each year.

B. The appointing authority or designee is responsible for administering the alcohol/drug testing program; determining when drug testing is appropriate; receiving, acting on, and holding confidential all information received from the testing services provider and from the medical review officer; and collecting appropriate information necessary to agency defense in the event of legal challenge.

C. All supervisory personnel are responsible for assuring that each employee under their supervision is aware of and understands this policy, and signs a receipt form acknowledging the policy. Each employee must be given a copy of the receipt form in the new hire package.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 25:1147 (June 1999), amended by the Department of Social Services, Office of Management and Finance, LR 32:115 (January 2006).

§117. Violation of the Policy

A. **Positive Test Result.** All initial screening tests with positive results must be confirmed by a second more accurate test with the results reviewed by a medical review officer. Any breath test resulting in 0.08 alcohol concentration will be considered an initial positive result. In these cases, the confirmation test will be performed within 30 minutes, but not less than 15 minutes, of completion of the screening test. Urine samples will be tested using the split sample method, with the confirmation test performed on the second half of the sample in the event of an initial positive result. Any employee reported with a confirmed positive test shall either be suspended with pay pending investigation or shall have the safety/security sensitive duties removed from his/her position pending preparation and approval of disciplinary action up to and including dismissal, as set forth in DSS Policy 4-07. At a minimum the following actions will be taken in the instance of a first confirmed positive test.

1. The employee shall be subject to disciplinary action as determined by the appointing authority.

2. ...

3. The employee shall be screened on a periodic basis for not less than 12 months nor more than 60 months. Follow-up testing, return to duty testing, counseling and any other recommended treatment will be at the cost of the employee and not the department. Post accident or return to duty tests which are positive will result in the employee's dismissal.

B. Refusal to Test.

1. Any employee refusing to submit to a breath test for the presence of alcohol or a urine test for the presence of drugs will be subject to the consequences of a positive test. A refusal is defined as a verbal refusal, abusive language to the supervisor or personnel performing the test, or tampering of any sample, container, equipment or documentation of the sampling process. If a test is determined to be invalid, it is not considered a refusal and no disciplinary action will be taken. Inability to perform the testing procedures must be documented by a medical physician and recorded in the employee's personnel file.

2. If an employee alleges that, because of medical reasons, he/she is unable to provide a sufficient amount of breath to permit a valid breath test, the Breath Alcohol Technician (BAT) will instruct the employee to try a second time to provide an adequate amount of breath. If an employee is unwilling to submit to the test, then the results of the test will be subject to the consequences of a positive test. If an employee is unable to provide a sufficient quantity of urine, the collector will discard the insufficient specimen and instruct the individual to drink up to 40 ounces of fluid, distributed reasonably through a period of up to three hours, or until the employee has provided a new urine specimen. If the employee remains unable to provide a sufficient specimen, the collector must discard the insufficient specimen, discontinue testing and notify the Agency Human Resources Director or his/her designee of his/her actions. In these instances, the Agency Human Resources Director or his/her designee shall inform the appointing authority immediately. The appointing authority shall direct the employee to have a medical evaluation, within five working days (at the agency's expense) conducted by an agency selected licensed physician with expertise in the medical issues surrounding a failure to provide a sufficient specimen. The physician will provide to the appointing authority, a report of his/her conclusions as to whether the employee's inability to provide a sufficient specimen is genuine or constitutes a refusal to test. If the conclusion of refusal to test is reached, it will be subject to the consequences of a positive test.

C. Reasonable Suspicion of Adulterated/Substituted Sample. A specimen temperature that measures outside the range of 90 to 100 degrees Fahrenheit constitutes a reason to believe that an employee has adulterated or substituted the specimen. The collector must immediately conduct a new collection using direct observation procedures.

D. Challenging Test Results. If a current or prospective employee receives a confirmed positive test result, he/she may challenge the test results within 72 hours of actual notification, with the understanding that he/she may be placed on suspension pending investigation, until the challenge is resolved. A written explanation of the reason for the positive test result may be submitted to the medical review officer. Employees who are on legally prescribed and obtained medication for a documented illness, injury or ailment will be eligible for continued employment upon receiving clearance from the medical review officer.

E. Other Violations. Each violation and alleged violation of this policy will be handled on an individual basis, taking into account all data, including the risk to self, fellow employees, clients, and the general public.

F. Failure to comply with provision of the policy, including but not limited to, the following, will be grounds for disciplinary action:

1. - 4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 25:1147 (June 1999), amended by the Department of Social Services, Office of Management and Finance, LR 32:115 (January 2006).

§119. Attachment A—Safety-Sensitive and Security-Sensitive Positions Within DSS

A. A candidate for one of the following positions will be required to pass a drug test before being placed in such a position, whether through appointment or promotion and employees who occupy these positions will be subject to random alcohol/drug testing:

Louisiana Rehabilitation Services	Administrative Specialist 3 (Position 060871) Client Services Worker Rehabilitation Aide
Office of Family Support	Social Services Analyst 1 & 2 (All positions in Support Enforcement) Social Services Analyst Supervisor (All positions in Support Enforcement) Support Enforcement District Manager 1 & 2 Support Enforcement Regional Administrator
Office of Community Services	Administrative Coordinator 3 (Positions in Field Services – Parish and Regional Offices) Administrator Coordinator 2 (Positions in Field Services – Parish and Regional Offices) Child Welfare Services Assistant Trainee Child Welfare Services Assistant Child Welfare Counselor/Adoption Child Welfare Specialist 1 Child Welfare Specialist 2 Child Welfare Specialist 3 Child Welfare Specialist 4 Child Welfare Specialist Trainee Social Service Counselor 1 Social Service Counselor 2
Office of the Secretary/Office of Management and Finance	Accountant 3 (178446) Administrative Coordinator 1 (002112, 002913) Administrative Coordinator 2 (001979) Auditor Supervisor (124684) Licensing Specialist 1—DSS Licensing Specialist 2—DSS

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 25:1148 (June 1999), amended by the Department of Social Services, Office of Management and Finance, LR 32:116 (January 2006).

Ann S. Williamson
Secretary

0601#091

RULE

**Department of Transportation and Development
Office of Highways/Engineering**

**Control of Outdoor Advertising
(LAC 70:III.136 and 139)**

Editor's Note: Sections 136 and 139 are being republished to correct technical errors. The original Rule may be viewed in its entirety on pages 944-946 of the April 20, 2005 issue of the *Louisiana Register*.

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Transportation and Development hereby amends Subchapter C of Chapter 1 of Part III of Title 70 entitled "Regulations for Control of Outdoor Advertising," in accordance with R.S. 48:461, et seq.

**Title 70
TRANSPORTATION
Part III. Outdoor Advertising
Chapter 1. Outdoor Advertising
Subchapter C. Regulations for Control of Outdoor Advertising
§136. Erection and Maintenance of Outdoor Advertising in Unzoned Commercial and Industrial Areas**

A. Definitions

* * *

Unzoned Commercial or Industrial Areas—those areas which are not zoned by state or local law, regulation, ordinance and on which there are located one or more permanent structures within which a commercial or industrial business is actively conducted.

- a. Repealed.
- b. Repealed.

B. Qualifying Criteria

1. Primary Use Test

a. The business must be equipped with all customary utilities and must be open to the public regularly or be regularly used by employees of the business as their principal work stations.

b. The primary use or activity conducted in the area must be of a type customarily and generally required by local comprehensive zoning authorities in this state to be restricted as a primary use to areas which are zoned industrial or commercial.

c. The fact that an activity may be conducted for profit in the area is not determinative of whether or not an area is an *unzoned commercial or industrial area*. Activities incidental to the primary use of the area, such as a kennel or repair shop in a building or on property which is used primarily as a residence, do not constitute commercial or industrial activities for the purpose of determining the primary use of an *unzoned* area even though income is derived from the activity.

d. If, however, the activity is primary and local comprehensive zoning authorities in this state would

customarily and generally require the use to be restricted to a commercial or industrial area, then the activity constitutes a commercial or industrial activity for purposes of determining the primary use of an area, even though the owner or occupant of the land may also live on the property.

2. Visibility and Measurement Test

a. The area along the highway extending outward 800 feet from and beyond the edge of such activity shall also be included in the defined area.

b. The purported commercial or industrial activity must be visible from the main-traveled way within the boundaries of that unzoned commercial or industrial area by a motorist of normal visual acuity traveling at a maximum posted speed limit on the main traveled way of the highway. Visibility will be determined at the time of the field inspection by the department's authorized representative.

c. Each side of the highway will be considered separately. All measurements shall be from the outer edge of the regularly used buildings, parking lots, storage, processing, or landscaped areas of the commercial or industrial activity and shall not be made from the property lines of the activities. The measurement shall be along or parallel to the edge of the pavement of the highway.

3. Structures and Grounds Requirements

a. - f. ...

g. Limits. Limits of business activity shall be in accordance with the definition of Unzoned commercial or industrial areas as stated in §136.B.2.a.

B.3.h. - C.4. ...

D. Non-Qualifying Activities

1. - 11. ...

12. Public park lands or playgrounds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 25:880 (May 1999), amended by the Department of Transportation and Development, Office of Highways/Engineering, LR 31:945 (April 2005), repromulgated LR 32:117 (January 2006).

§139. Determination of On-Premise Exemptions

A. - B.3.c.ii.(d). ...

C. Public Facility Sign Restrictions

1. Signs on the premises of a public facility, including but not limited to the following: schools, civic centers, coliseums, sports arenas, parks, governmental buildings and amusement parks, that do not generate rental income to the owner of the public facility may advertise:

a. the name of the facility, including sponsors of the public sign; and

b. principal or accessory products or services offered on the property and activities conducted on the property as permitted by 23 CFR 750, 709, including:

i. events being conducted in the facility or upon the premises, including the sponsor of the current event; and

ii. products or services sold at the facility and activities conducted on the property that produce significant income to the operation of the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 2:189 (June 1976), amended by the Department of Transportation and Development, Office of Highways/Engineering, LR 31:945 (April 2005), repromulgated LR 32:117 (January 2006).

J. Michael Bridges, P.E.
Undersecretary

0601#051

RULE

Department of Treasury Deferred Compensation Commission

Public Employees Deferred Compensation Plan and Participant Member Election Procedures (LAC 32:VII.Chapters 1, 3, 7, 11, and 101)

Under the authority of R.S. 42:1301-1308, and §457 of the *Internal Revenue Code* of 1986 as amended, and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Department of the Treasury, Deferred Compensation Commission hereby amends the Deferred Compensation Plan, LAC 32:VII. Chapters 1, 3, 7, and 11; and adopts procedures governing the nomination and election of participant members in Chapter 101.

The State of Louisiana Public Employees Deferred Compensation Plan (the "plan") was adopted by the Louisiana Deferred Compensation Commission (the commission), effective September 15, 1982. The plan was established in accordance with R.S. 42:1301-1308, and §457 of the *Internal Revenue Code of 1986*, as amended, for the purpose of providing supplemental retirement income to employees and independent contractors by permitting such individuals to defer a portion of compensation to be invested and distributed in accordance with the terms of the plan. The commission hereby amends the Deferred Compensation Plan and adopts procedures governing the nomination and election of participant members as revised August 16, 2005.

Title 32

EMPLOYEE BENEFITS

Part VII. Public Employee Deferred Compensation

Subpart 1. Deferred Compensation Plan

Chapter 1. Administration

§101. Definitions

Account Balance—

1. the bookkeeping account maintained with respect to each participant which reflects the value of the deferred compensation credited to the participant, including:

- a. the participant's total amount deferred;
- b. the earnings or loss of the fund (net of fund expenses) allocable to the participant;
- c. any transfers for the participant's benefit; and
- d. any distribution made to the participant or the participant's beneficiary;

i. if a participant has more than one beneficiary at the time of the participant's death, then each beneficiary's share of the account balance shall be treated as a separate account for each beneficiary;

2. the *account balance* includes:
 - a. any account established under §505 for rollover contributions and plan-to-plan transfers made for a participant;
 - b. the account established for a beneficiary after a participant's death; and
 - c. any account or accounts established for an alternate payee [as defined in Code §414(p)(8)].

Alternate Payee—the spouse, former spouse, child or other dependent of a participant who has acquired an interest in the participant's account pursuant to a Qualified Domestic Relations Order (QDRO) pursuant to §1503. Alternate payees shall be treated as beneficiaries for all purposes under the plan except that alternate payees shall be allowed to request a distribution of all or a portion of their account balance at any time, subject to the terms of the QDRO.

Beneficiary—the person, persons or entities designated by a participant pursuant to §301.A.5 who is entitled to receive benefits under the plan after the death of a participant.

Compensation—all payments paid by the employer to an employee or independent contractor as remuneration for services rendered, including salaries and fees, and, to the extent permitted by treasury regulations or other similar guidance, accrued vacation and sick leave pay paid within two and one-half months of participant's severance from employment so long as the employee would have been able to use the leave if employment had continued.

Custodian—the bank or trust company or other person, if any selected by the commission to hold plan assets in a custodial account in accordance with regulations pursuant to IRC §457(g) and 401(f).

Employee—any individual who is employed by the employer, either as a common law employee or an independent contractor, including elected or appointed individuals providing personal services to the employer. Any *employee* who is included in a unit of employees covered by a collective bargaining agreement that does not specifically provide for participation in the plan shall be excluded.

Includible Compensation—an employee's actual wages in Box 1 of Form W-2 for a year for services to the employer, but subject to a maximum of \$200,000 [or such higher maximum as may apply under Code §401(a)(17)] and increased (up to the dollar maximum) by any compensation reduction election under Code §§125, 132(f), 401(k), 403(b), or 457(b) [for purposes of the limitation set forth in §303.A, compensation for services performed for the employer as defined in IRC §457(e)(5)].

Independent Contractor—an individual (not a corporation, partnership, or other entity), who is receiving compensation for services rendered to or on behalf of the employer in accordance with a contract between such individual and the employer.

Investment Product—any form of investment designated by the commission for the purpose of receiving funds under the plan.

IRC—the *Internal Revenue Code* of 1986, as amended, or any future United States Internal Revenue law. References herein to specific section numbers shall be deemed to include treasury regulations thereunder and Internal Revenue Service guidance thereunder and to corresponding provisions of any future United States internal revenue law. All citations to sections of the Code are to such sections as they may from time to time be amended or renumbered.

* * *

Non-Elective Employer Contribution—any contribution made by an employer for the participant with respect to which the participant does not have the choice to receive the contribution in cash or property. Such term may also include an employer matching contribution.

Normal Retirement Age—

1. - 1.b. ...

2. if the participant is not a member of a defined benefit plan in any public retirement system, the participant's normal retirement age may not be earlier than age 65, and may not be later than age 70 1/2. A special rule shall apply to qualified police or firefighters under the plan, if any. Any qualified police or firefighter, as defined under §415(b)(2)(H)(ii)(I), who is participating in the plan may choose a normal retirement age that is not earlier than age 40 nor later than age 70 1/2;

3. ...

* * *

Severance from Employment or Severs Employment—

1. the date the employee dies, retires, or otherwise has a severance from employment with the employer, as determined by the administrator (and taking into account guidance issued under the Code). An employee whose employment is interrupted by qualified military service under Code §414(u) shall be deemed severed from employment until such time as he or she is reemployed following the term of duty. A participant shall be deemed to have severed employment with the employer for purposes of this plan when both parties consider the employment relationship to have terminated and neither party anticipates any future employment of the participant by the employer. In the case of a participant who is an independent contractor, severance from employment shall be deemed to have occurred when:

a. the participant's contract for services has completely expired and terminated;

b. there is no foreseeable possibility that the employer shall renew the contract or enter into a new contract for services to be performed by the participant; and

c. it is not anticipated that the participant shall become an employee of the employer.

2. - 3. ...

* * *

Unforeseeable Emergency—

1. severe financial hardship to a participant resulting from:

a. a sudden and unexpected illness or accident of the participant or of a dependent [as defined in IRC §152(a)] of the participant;

b. loss of the participant's property due to casualty;

or

c. other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the participant;

2. the need to send a participant's child to college or the desire to purchase a home shall not constitute an unforeseeable emergency. Whether a hardship constitutes an unforeseeable emergency under IRC §506 shall be determined in the sole discretion of the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1962 (October 1998), amended LR 28:1494 (June 2002), LR 32:118 (January 2006).

Chapter 3. Plan Participation, Options and Requirements

§301. Enrollment in the Plan

A. The following applies to compensation deferred under the plan.

1. A participant may not defer any compensation unless a deferral authorization providing for such deferral has been completed by the participant and is filed in good order with the administrator. Such election shall become effective no earlier than the first payroll period after the first day of the month after such new election is made, and shall continue in effect until modified, disallowed or revoked in accordance with the terms of this plan, or until the participant ceases employment with the employer. With respect to a new employee, compensation will be deferred in the payroll period during which a participant first becomes an employee if a deferral authorization providing for such deferral is executed on or before the first day on which the participant becomes an employee. Any prior employee who was a participant in the plan and either revoked their participant agreement, or is rehired by employer, may resume participation in the plan by entering into a participation agreement, which shall take effect no earlier than the first payroll period after the first day of the month after such new participation agreement is entered into by the participant and accepted by the administrator. Any distributions being taken from this plan are to be terminated prior to the resumption of deferrals under the plan. Additionally, if distributions had not begun pursuant to a prior severance from employment, any deferred commencement date elected by such employee with respect to those prior plan assets shall be null and void.

2. In signing the participation agreement, the participant elects to participate in this plan and consents to the deferral by the employer of the amount specified in the participation agreement from the participant's gross compensation for each pay period. Such deferral shall continue in effect until modified, disallowed or revoked in accordance with the terms of this plan. Unless the election specifies a later effective date, a change in the amount of the deferral shall take effect as of the first payroll period after the first day of the next following month, or as soon as administratively practicable, if later.

3. The minimum amount of compensation deferred under a deferral authorization shall be no less than \$20 each month; provided, however, that such minimum deferral shall

not apply to a participant whose deferral authorization (or similar form) in effect on October 1, 1984, permitted a smaller deferral, or to a participant who elects to defer not less than 7.5 percent of compensation (voluntary and/or involuntary contributions) in lieu of Social Security coverage (§11332 of the Social Security Act and IRC §3121). The employer retains the right to establish minimum deferral amounts per pay period and to limit the number and/or timing of enrollments into the plan in the participation agreement.

4. Notwithstanding Paragraph 1 above, to the extent permitted by applicable law, the administrator may establish procedures whereby each employee becomes a participant in the plan (automatic enrollment) and, as a term or condition of employment, elects to participate in the plan and consents to the deferral by the employer of a specified amount for any payroll period for which a participation agreement is not in effect. In the event such procedures are in place, a participant may elect to defer a different amount of compensation per payroll period, including zero, by entering into a participation agreement.

5. Investment Selection and Beneficiary Designation

a. The participation election, or such other form as approved by the administrator, shall include the employee's designation of investment funds. Any such election shall remain in effect until a new election is filed. A change in the investment direction shall take effect as of the date provided by the administrator on a uniform basis for all employees.

b. Each participant shall initially designate in the participation agreement a beneficiary or beneficiaries to receive any amounts, which may be distributed in the event of the death of the participant prior to the complete distribution of benefits. A participant may change the designation of beneficiaries at any time by filing with the commission a written notice on a form approved by the commission. If no such designation is in effect at the time of participant's death, or if the designated beneficiary does not survive the participant by 30 days, his beneficiary shall be his surviving spouse, if any, and then his estate.

6. Information Provided by the Participant. Each employee enrolling in the plan should provide to the administrator at the time of initial enrollment, and later if there are any changes, any information necessary or advisable, in the sole discretion of the administrator, for the administrator to administer the plan, including, without limitation, whether the employee is a participant in any other eligible plan under Code §457(b).

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1964 (October 1998), amended LR 28:1495 (June 2002), LR 32:119 (January 2006).

§303. Deferral Limitations

A. Except as provided in §305.A.1-2.a-b, the maximum that may be deferred under the plan for any taxable year of a participant shall not exceed the lesser of:

1. the applicable dollar amount in effect for the year, as adjusted for the calendar year in accordance with IRC §457(e)(15). [After 2006, the dollar amount is adjusted for cost-of-living under Code §415(d)]; or

2. one hundred percent of the participant's includible compensation, each reduced by any amount specified in

Subsection B of this §303 that taxable year. However, in no event can the deferred amount be more than the participant's compensation for such years unless the employer is making nonelective employer contributions.

a. The annual deferral amount does not include any rollover amounts received by the plan under treasury regulation §1.457-10(e).

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1964 (October 1998), amended LR 28:1496 (June 2002), LR 32:120 (January 2006).

§305. Limited Catch-up

A.1. - 2.b. ...

B. If a participant is not a member of a defined benefit plan in any public retirement system, normal retirement age may not be earlier than age 65, and may not be later than age 70 1/2.

C. Pre-2002 Coordination Years

1. For purposes of this §305, *Contributions to Pre-2002 Coordination Plans* means any employer contribution, salary reduction or elective contribution under:

a. any other eligible Code §457(b) plan; or

b. a salary reduction or elective contribution under any Code §401(k) qualified cash or deferred arrangement;

c. Code §402(h)(1)(B) simplified employee pension (SARSEP);

d. Code §403(b) annuity contract; and

e. Code §408(p) simple retirement account; or

f. any plan for which a deduction is allowed because of a contribution to an organization described in Code §501(c)(18), including plans, arrangements or accounts maintained by the employer or any employer for whom the participant performed services.

2. Contributions for any calendar year are only taken into account for purposes of this §305 to the extent that the total of such contributions does not exceed the aggregate limit referred to in Code §457(b)(2) for that year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1965 (October 1998), amended LR 28:1496 (June 2002), LR 32:120 (January 2006).

§307. Participant Modification of Deferral

A. The participant shall be entitled to modify the amount (or percentage) of deferred compensation with respect to compensation payable no earlier than the payroll period after the first day of the next following month, or as soon as administratively practicable, if later, provided such modification is entered into by the participant and accepted by the commission. Notwithstanding the above, if a negative election procedure has been implemented pursuant to §301.A.4, a participant may enter into or modify a participation agreement at any time to provide for no deferral.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1965 (October 1998), amended LR 28:1496 (June 2002), LR 32:120 (January 2006).

§309. Employer Modification of Deferral

A. - A.1-6. ...

B. To the extent permitted by, and in accordance with, the *Internal Revenue Code*, the employer or administrator may distribute the amount of a participant's deferral in excess of the distribution limitations stated in §§301, 303, 305, 307 and 309 notwithstanding the limitations of §701.A; provided, however, that the employer and the commission shall have no liability to any participant or beneficiary with respect to the exercise of, or the failure to exercise, the authority provided in this §309.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1965 (October 1998), amended LR 28:1496 (June 2002), LR 32:121 (January 2006).

§313. Re-Enrollment

A. A participant who revokes the participation agreement as set forth in §311.A may execute a new participation agreement to defer compensation payable no earlier than the payroll period after the first day of the next following month, or as soon as administratively practicable, if later, provided such new participation agreement is executed by the participant and accepted by the commission.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1965 (October 1998), amended LR 28:1496 (June 2002), LR 32:121 (January 2006).

§319. Qualified Military Service

A. ...

B. Protection of Persons Who Serve in a Uniformed Service. An employee whose employment is interrupted by qualified military service under Code §414(u) may elect to make additional annual deferrals upon resumption of employment with the employer equal to the maximum annual deferrals that the employee could have elected during that period if the employee's employment with the employer had continued (at the same level of compensation) without the interruption or leave, reduced by the annual deferrals, if any, actually made for the employee during the period of the interruption or leave. This right applies for five years following the resumption of employment (or, if sooner, for a period equal to three times the period of the interruption or leave).

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1966 (October 1998), amended LR 32:121 (January 2006).

§321. Correction of Excess Deferrals

A. If the total amount deferred on behalf of a participant for any calendar year exceeds the limitations described above, or the total amount deferred on behalf of a participant for any calendar year exceeds the limitations described above when combined with other amounts deferred by the participant under another eligible deferred compensation plan under Code §457(b) for which the participant provides information that is accepted by the administrator, then the total amount deferred, to the extent in excess of the applicable limitation (adjusted for any income or loss in

value, if any, allocable thereto), shall be distributed to the participant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 32:121 (January 2006).

Chapter 7. Distributions

§701. Conditions for Distributions

A. - A.4. ...

5. the calendar year in which an in-service participant attains age 70 1/2, but only if such participant revokes all deferrals of compensation into the plan prior to beginning distributions.

B. Payments from a Participant's Rollover Account(s). If a participant has a separate account attributable to rollover contributions to the plan, the participant may at any time elect to receive a distribution of all or any portion of the amount held in the rollover account(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1967 (October 1998), amended LR 28:1497 (June 2002), LR 32:121 (January 2006).

§703. Severance from Employment

A. ...

B. Upon notice to participants, and subject to §§701.A, 703.B, and 721.A, the administrator may establish procedures under which a participant whose total §457 Deferred Compensation account balance is less than an amount specified by the administrator (not in excess of \$1,000 or other applicable limit under the *Internal Revenue Code*) may receive a lump sum distribution on the first regular distribution commencement date (as the employer or administrator may establish from time to time) following the participant's severance from employment, notwithstanding any election made by the participant pursuant to §721.A.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1967 (October 1998), amended LR 28:1497 (June 2002), LR 32:121 (January 2006).

§705. In-Service Distributions

A. - B. ...

1. the portion of the total amount payable to the participant under the plan does not exceed an amount specified from time to time by the commission (not in excess of \$1,000 or other applicable limit under the *Internal Revenue Code*);

2. - 3 ...

C. Participants in the plan providing FICA replacement retirement benefits pursuant to regulations under Code §3121(b)(7)(F) are not eligible for In-Service *De Minimus* distributions.

D. Purchase of Defined Benefit Plan Service Credit

1. If a participant is also a participant in a defined benefit governmental plan [as defined in IRC §414(d)], such participant may request the commission to transfer amounts from his or her account for:

a. the purchase of permissive service credit [as defined in IRC §415(n)(3)(A)] under such plan; or

b. a repayment to which IRC §415 does not apply by reason of IRC §415(k)(3).

2. Such transfer requests shall be granted in the sole discretion of the commission, and if granted, shall be made directly to the defined benefit governmental plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1967 (October 1998), amended LR 28:1497 (June 2002), LR 32:121 (January 2006).

§707. Deferred Commencement Date at Separation from Service

A. ...

B. If the participant is an independent contractor:

1. in no event shall distributions commence prior to the termination date on which all such participant's contracts to provide services to or on behalf of the employer expire; and

2. in no event shall a distribution payable to such participant pursuant to §703.A commence if, prior to the conclusion of the one-month period following cessation of services under contract, the participant performs services for the employer as an employee or independent contractor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1967 (October 1998), amended LR 28:1498 (June 2002), LR 32:122 (January 2006).

§709. Unforeseeable Emergency

A. - A.4. ...

B. The following events are not considered unforeseeable emergencies under the plan:

1. enrollment of a child in college;
2. purchase of a house;
3. purchase or repair of an automobile;
4. repayment of loans;
5. payment of income taxes, back taxes, or fines associated with back taxes;
6. unpaid expenses including rent, utility bills, mortgage payments, or medical bills;
7. marital separation or divorce; or
8. bankruptcy (except when bankruptcy resulted directly and solely from illness or casualty loss).

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1968 (October 1998), amended LR 28:1498 (June 2002), LR 32:122 (January 2006).

§711. Death Benefits

A. ...

B. If there are two or more beneficiaries, the provisions of this §711 and of §717.A shall be applied to each beneficiary separately with respect to each beneficiary's share in the participant's account.

C. Death of Participant before Participant's Required Beginning Date. If the participant dies before the required beginning date, the participant's entire interest will be distributed, or begin to be distributed, no later than as follows.

1. If the participant's surviving spouse is the participant's sole designated beneficiary, then, except as provided in this §711, distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the participant died, or by December 31 of the calendar year in which the participant would have attained age 70 1/2, if later.

2. If the participant's surviving spouse is not the participant's sole designated beneficiary, then, unless the beneficiary elects the five-year rule, distributions to the designated beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the participant died.

3. If there is no designated beneficiary as of September 30 of the year following the year of the participant's death, the participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the participant's death.

4. If the participant's surviving spouse is the participant's sole designated beneficiary and the surviving spouse dies after the participant but before distributions to the surviving spouse begin, this Subsection C will apply as if the surviving spouse were the participant.

D. Death On or After Participant's Required Beginning Date

1. Participant Survived by Designated Beneficiary. If the participant dies on or after the participant's required beginning date and there is a designated beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the participant's death is the quotient obtained by dividing the participant's account balance by the longer of the remaining life expectancy of the participant or the remaining life expectancy of the participant's designated beneficiary, determined as follows.

a. The participant's remaining life expectancy is calculated using the age of the participant in the year of death, reduced by one for each subsequent year.

b. If the participant's surviving spouse is the participant's sole designated beneficiary, the remaining life expectancy of the surviving spouse is calculated for each distribution calendar year after the year of the participant's death using the surviving spouse's age as of the spouse's birthday in that year. For distribution calendar years after the year of the surviving spouse's death, the remaining life expectancy of the surviving spouse is calculated using the age of the surviving spouse as of the spouse's birthday in the calendar year of the spouse's death, reduced by one for each subsequent calendar year.

c. If the participant's surviving spouse is not the participant's sole designated beneficiary, the designated beneficiary's remaining life expectancy is calculated using the age of the beneficiary in the year following the year of the participant's death, reduced by one for each subsequent year.

2. No Designated Beneficiary. If the participant dies on or after the date distributions begin and there is no designated beneficiary as of September 30 of the year after the year of the participant's death, the minimum amount that will be distributed for each distribution calendar year after

the year of the participant's death is the quotient obtained by dividing the participant's account balance by the participant's remaining life expectancy calculated using the age of the participant in the year of death, reduced by one for each subsequent year.

E. Under no circumstances shall the commission be liable to the beneficiary for the amount of any payment made in the name of the participant before the commission receives satisfactory proof of the participant's death.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1968 (October 1998), amended LR 28:1498 (June 2002), LR 32:122 (January 2006).

§713. Payment Options

A. A participant's or beneficiary's election of a payment option must be made at least 30 days prior to the date that the payment of benefits is to commence. If a timely election of a payment option is not made, benefits shall be paid in accordance with §715.A. Subject to applicable law and the other provisions of this plan, distributions may be made in accordance with one of the following payment options:

1. a single lump-sum payment;
2. installment payments for a period of years (payable on a monthly, quarterly, semiannual, or annual basis), which extends no longer than the life expectancy of the participant or beneficiary as permitted under the requirements of IRC §401(a)(9) using the Uniform Lifetime Table at regulation. §1.041(a)(9)-9, A-2 for the participant's age on the participant's birthday for that year. If the participant's age is less than age 70, the distribution period is 27.4 plus the number of years that the participant's age is less than age 70. The account balance for this calculation (other than the final installment payment) is the account balance as of the end of the year prior to the year for which the distribution is being calculated;

3. - 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1968 (October 1998), amended LR 28:1498 (June 2002), LR 32:123 (January 2006).

§715. Default Distribution Option

A. In the absence of an effective election by the participant, beneficiary or other payee, as applicable, as to the commencement and/or form of benefits, distributions shall be made in accordance with the applicable requirements of IRC §§401(a)(9) and 457(d), and proposed or final treasury regulations thereunder. In the absence of an effective election by the beneficiary or alternate payee as to the commencement and/or form of benefits, distribution shall be made in a lump sum.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1969 (October 1998), amended LR 28:1499 (June 2002), LR 32:123 (January 2006).

§723. Eligible Rollover Distributions

A. ...

B. Definitions. For purposes of this §723, the following definitions shall apply:

Direct Rollover—a payment by the plan to the eligible retirement plan specified by the distributee.

Distributee—includes an employee or former employee, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a Qualified Domestic Relations Order, as defined in IRC §414(p), are distributees with regard to the interest of the spouse or former spouse.

Eligible Retirement Plan—an eligible retirement plan is an individual retirement account described in IRC §408(a), an individual retirement annuity described in IRC §408(b), an annuity plan described in IRC §403(a) that accepts the distributee's eligible rollover distribution, a qualified trust described in IRC §401(a) (including §401(k)) that accepts the distributee's eligible rollover distribution, a tax-sheltered annuity described in IRC §403(b) that accepts the distributee's eligible rollover distribution, or another eligible deferred compensation plan described in IRC §457(b) that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity.

Eligible Rollover Distribution—any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies and the distributee's designated beneficiary, or for:

- a. a specified period of 10 years or more;
- b. any distribution to the extent such distribution is required under IRC §401(a)(9);
- c. any distribution that is a deemed distribution under the provisions of IRC §72(p);
- d. the portion of any distribution that is not includable in gross income; and
- e. any hardship distribution or distribution on account of unforeseeable emergency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1969 (October 1998), amended LR 28:1499 (June 2002), LR 32:123 (January 2006).

Chapter 11. Participant Loans

§1103. Maximum Loan Amount

A. -A.1.b. ...

2. one-half of the participant's account balance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1970 (October 1998), amended LR 28:1500 (June 2002), LR 32:123 (January 2006).

§1107. Loan Terms and Conditions

A. - A.3. ...

4. The participant shall be required, as a condition to receiving a loan, to enter into an irrevocable agreement authorizing the employer to make payroll deductions from his or her compensation as long as the participant is an

employee and to transfer such payroll deduction amounts to the trustee in payment of such loan plus interest. Repayments of a loan shall be made by payroll deduction of equal amounts (comprised of both principal and interest) from each paycheck, with the first such deduction to be made as soon as practicable after the loan funds are disbursed; provided, however, a participant may prepay the entire outstanding balance of his loan at any time; and provided, further, that if any payroll deductions cannot be made in full because a participant is on an unpaid leave of absence or is no longer employed by a participating employer (that has consented to make payroll deductions for this purpose) or the participant's paycheck is insufficient for any other reason, the participant shall pay directly to the plan the full amount that would have been deducted from the participant's paycheck, with such payment to be made by the last business day of the calendar month in which the amount would have been deducted.

5. - 7. ...

8. Security for Loan. Any loan to a participant under the plan shall be secured by the pledge of the portion of the participant's interest in the plan invested in such loan.

9. Default

a. In the event that a participant fails to make a loan payment under this Article IV by the end of the calendar quarter following the calendar quarter in which such payment was due, a default on the loan shall occur. In the event of such default:

i. all remaining payments on the loan shall be immediately due and payable;

ii. interest will continue to accrue on the unpaid balance until the loan is repaid in full; and

iii. the participant shall be permanently ineligible for any future loans from the plan unless, in the administrator's sole discretion, the participant is deemed to be credit worthy and agrees to repay the loan through payroll deduction.

b. In the case of any default on a loan to a participant, the administrator shall apply the portion of the participant's interest in the plan held as security for the loan in satisfaction of the loan on the date of severance from employment. In addition, the administrator shall take any legal action it shall consider necessary or appropriate to enforce collection of the unpaid loan, with the costs of any legal proceeding or collection to be charged to the account balance of the participant.

c. Notwithstanding anything elsewhere in the plan to the contrary, in the event a loan is outstanding hereunder on the date of a participant's death, his or her estate shall be his or her beneficiary as to the portion of his or her interest in the plan invested in such loan (with the beneficiary or beneficiaries as to the remainder of his or her interest in the plan to be determined in accordance with otherwise applicable provisions of the plan).

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 28:1500 (June 2002), amended LR 32:123 (January 2006).

Subpart 3. Nominations and Elections

Chapter 101. Nomination and Election of Participant Members

§10101. Election Procedures

A. The Louisiana Deferred Compensation Commission (the "commission") developed the following procedures for the election of participant members to the commission, revised August 16, 2005. These procedures shall remain in effect until amended.

1. On or before the first day of January of each year, the commission shall appoint a nominating committee consisting of three to five participants, no two of whom are employed by the same department of state government and none of whom are members of the commission. Public notice of the appointment of the nominating committee shall be given in the same manner as that required for giving public notice of meetings of the commission. All participants shall be notified by means of a notice mailed to them by either the fourth quarter statements or via direct mail that an election will be held, and the method by which the election will be held.

2. The nominating committee shall submit to the commission the name of at least one participant for each vacancy that has occurred and the name of at least one participant for each term that is about to expire. Only participants who have been participants for more than two years prior to the date on which the term begins may be nominated.

3. Upon the receipt of the report of the nominating committee, the commission shall notify personnel officers of the receipt of the said report and shall request personnel officers to notify participants (by posting a notice in appropriate places or by other means) that the said report has been received and that additional nominations may be made by petition.

4. A participant may be nominated by petition if the petition contains the signatures of 12 participants and is received by the commission chairman or his/her designee prior to the deadline set forth in the notice supplied to personnel officers pursuant to Paragraph 3 above. Only participants who have been participants for more than two years prior to the date on which the term begins may be nominated by petition. Petitioning participants' signatures must be accompanied by a statement signed by the nominee in which the nominee expresses his or her willingness to serve if elected.

5. In the event two or more participants are nominated for a position on the commission, the commission chairman shall conduct a drawing to determine the order in which candidates' names will appear on the ballot. All nominees for a position shall be invited by the chairman to attend the drawing. Each ballot shall contain, in addition to the name of the nominee(s), a statement containing no more than 35 words, which statement shall be prepared by the nominee and shall contain biographical information and/or a statement concerning the nominee's position on one or more issues pertinent to the deferred compensation program. If and when the commission determines that the use of photographs of the nominees on the ballots will be feasible,

the chairman shall provide all nominees with the opportunity to submit suitable photographs of themselves for use in preparation of the ballots. The submission of such a photograph shall be optional for each nominee.

6. A participant shall be eligible to participate in an election if that participant receives a first quarter statement of his account with the Louisiana Deferred Compensation plan during the year in which the election is held. The commission may elect to distribute the ballots to the eligible participants via the first quarter statement, or via direct mail. The commission may also contract through a third party vendor to provide vote collection services, including electronic votes utilizing an Interactive Voice Response ("IVR") telephone voting system, electronic votes utilizing the Internet and also paper ballot votes. Election services include the production of election materials, mailing services, barcode system services, election ballot processing and counting using automated scanning, and other related services. If the voting process is sent via the statement or mail, each ballot shall be accompanied by a ballot envelope (clearly marked with instructions that the completed ballot shall be placed therein and the envelope sealed), a mailing envelope on which is printed the name and address of the commission's designated return address, and a signature slip.

7. The commission may require that the participant's signature appear on the signature slip together with the last four digits of the participant's Social Security Number. The signature slip and the ballot envelope shall be placed in the mailing envelope. The signature slip must not be placed in the ballot envelope. The mailing envelope shall be mailed or delivered to the commission at the address printed on the mailing envelope.

8. The commission or the commission chairman, if authorized by the commission, shall appoint a ballot counting committee and the commission chairman shall invite all nominees to be present for the ballot counting.

9. The deadline for return of ballots and the date on which ballots will be counted shall both be fixed by the commission or by the commission chairman, if authorized by the commission.

10. Prior to counting the ballots, the ballot counting committee shall make such verification as is deemed appropriate. The committee shall verify that each ballot has been submitted correctly. Any ballot not submitted correctly will be deemed invalid. If a third party vendor is contracted for vote collection services, the ballot counting committee shall examine and verify the database representing the final vote tally.

11. No nominee shall be required to receive a majority of the votes in order to be elected. The nominee receiving a plurality of the votes cast shall be declared elected. In the event two or more nominees receive the same number of votes, the winner shall be chosen by the toss of a coin.

12. Upon completion of its work, the ballot counting committee shall submit a written report to the chairman concerning the result of the election. The chairman shall make public the result of the election at the next commission meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 32:124 (January 2006).

Emery J. Bares
Chairman

0601#082

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Spotted Seatrout Management Measures (LAC 76:VII.341)

The following Section is being repromulgated for clarification. This repromulgation corrects codification errors and also combines two Rules that were published in the July and November 2004 issues, both amending the same Section.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishing §341. Spotted Seatrout Management Measures

A. Commercial Season; Quota; Permits

1. The commercial season for spotted seatrout whether taken from within or without Louisiana state waters shall remain closed until January 2 of each year, when it shall open and remain open through July 31 of each year, or until the quota is reached, or on the date projected by the staff of the Department of Wildlife and Fisheries that the quota will be reached, whichever comes first.

2. The commercial quota for spotted seatrout shall be 1,000,000 pounds for each fishing season.

3. Permits

a. The commercial taking of spotted seatrout is prohibited except by special nontransferable Spotted Seatrout Permit issued by the Department of Wildlife and Fisheries at the cost of \$100 for residents of this state and \$400 for those who are nonresidents. This permit, along with other applicable licenses, authorizes the bearer to sell his spotted seatrout catch.

b. No person shall be issued a license or permit for the commercial taking of spotted seatrout unless that person meets all of the following requirements.

i. The person shall provide proof that he purchased a valid Louisiana commercial saltwater gill net license in any two of the years 1995, 1994, and 1993.

ii. The person shall show that he derived more than 50 percent of his earned income from the legal capture and sale of seafood species in any two of the years 1995, 1994, and 1993. Proof of such income shall be provided by the applicant using any of the methods listed below.

(a) Method 1. Applicant shall submit to the Department of Wildlife and Fisheries (Licensing Section) a copy of his federal income tax return including all attachments (i.e., Schedule C of federal Form 1040, Form W-2, etc.), which has been certified by the Internal Revenue Service (IRS).

(b). Method 2. Applicant shall submit to the Department of Wildlife and Fisheries (Licensing Section) a copy of his federal income tax return including all attachments (i.e., Schedule C of federal Form 1040, Form W-2, etc.), which has been filed and stamped "received" at a local IRS office accompanied by a signed cover letter acknowledging receipt by the IRS.

(c). Method 3. Applicant shall submit to the Department of Wildlife and Fisheries (Licensing Section) a signed copy of his federal tax return including all attachments (i.e., Schedule C of federal Form 1040, Form W-2, etc.) along with an IRS stamped transcript and IRS signed cover letter. Transcripts are available at local IRS offices.

iii. The Socioeconomic Section of the Department of Wildlife and Fisheries, Office of Management and Finance, will review the submitted tax return information and determine applicant's eligibility as defined by R.S. 56:325.3 D(1)(b).

iv. The person shall not have applied for or received any assistance pursuant to R.S. 56:13.1(C).

v. The applicant shall not have been convicted of any fishery-related violations that constitute a Class Three or greater violation.

c. No person shall receive more than one permit or license to commercially take spotted seatrout.

d. No person shall qualify for a charter boat fishing guide license and a spotted seatrout permit during the same licensure period.

B. General Provisions. The commercial closure shall apply to spotted seatrout taken, landed or possessed on the water whether taken from within or without Louisiana waters. Effective with the closure, no person shall commercially harvest, take, land or possess spotted seatrout in excess of a recreational limit in Louisiana. Effective with the commercial closure no person shall sell, barter, trade, exchange, purchase or attempt to sell, barter, trade, exchange or purchase spotted seatrout. Nothing herein shall prohibit the purchase, sale, barter or exchange of spotted seatrout off

the water by licensed commercial dealers taken during any open period or which are legally imported into the state if appropriate records are properly maintained in accordance with R.S. 56:306.5 and R.S. 56:306.6 and those that are required to do so shall be properly licensed in accordance with R.S. 56:303, 56:306 or 56:306.1.

C. Recreational Regulations. Within those areas of the state, including coastal territorial waters, south of Interstate 10 from its junction at the Texas-Louisiana boundary eastward to its junction with Louisiana Highway 171, south to Highway 14, and then south to Holmwood, and then south on Highway 27 through Gibbstown south to Louisiana Highway 82 at Creole and south on Highway 82 to Oak Grove, and then due south to the western shore of the Mermentau River, following this shoreline south to the junction with the Gulf of Mexico, and then due south to the limit of the state territorial sea, of the daily take and possession limit of 25 fish currently set out at R.S. 56:325.1A.(2)(b), no person shall possess, regardless of where taken, more than two spotted seatrout exceeding 25 inches total length. Those spotted seatrout exceeding 25 inches in length shall be considered as part of the daily recreational bag limit and possession limit.

AUTHORITY NOTE: Promulgated in accordance with Act Number 157 of the 1991 Regular Session of the Louisiana Legislature, R.S. 56:6(25)(a); R.S. 56:325.3; R.S. 56:326.3; Act 1316 of the 1995 Regular Legislative Session, R.S. 56:325.3; and Act 1164 of the 2003 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 18:199 (February 1992), amended LR 22:238 (March 1996), LR 24:360 (February 1998), LR 26:2333 (October 2000), LR 30:1509 (July 2004), LR 30:2498 (November 2004), repromulgated LR 32:125 (January 2006).

Dwight Landreneau
Secretary

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